

## § 78.9

criteria as the Administrator may determine in furtherance of the disaster resistant community concept.

(b) A maximum of \$1,500,000 may be allocated for Planning Grants nationally each fiscal year. A Planning Grant will not be awarded to a State or community more than once every 5 years, and an individual Planning Grant will not exceed \$150,000 to any State agency applicant, or \$50,000 to any community applicant. The total Planning Grant made in any fiscal year to any State, including all communities located in the State, will not exceed \$300,000.

(c) A maximum of ten percent of the funds available for Project Grants will be allocated to Technical Assistance grants each fiscal year.

(d) The total amount of FMA Project Grant funds provided during any 5-year period will not exceed \$10,000,000 to any State or \$3,300,000 to any community. The total amount of Project Grant funds provided to any State, including all communities located in the State will not exceed \$20,000,000 during any 5-year period.

### § 78.9 Planning grant approval process.

The State POC will evaluate and approve applications for Planning Grants. Funds will be provided only for the flood portion of any mitigation plan, and Planning Grants will not be awarded to develop new or improved floodplain maps. The performance period for each Planning Grant will not exceed 3 years.

### § 78.10 Project grant approval process.

The State POC will solicit applications from eligible applicants, review projects for eligibility, and select applications for funding. Those project applications will then be forwarded to FEMA for final approval. FEMA will provide funding on a project by project basis through a supplement to the annual Cooperative Agreement. The FEMA Regional Administrator will notify States regarding the program schedule at the beginning of each fiscal year.

## 44 CFR Ch. I (10–1–11 Edition)

### § 78.11 Minimum project eligibility criteria.

The identification of a project or activity in an approved Flood Mitigation Plan does not mean it meets FMA eligibility criteria. Projects must:

(a) Be cost-effective, not costing more than the anticipated value of the reduction in both direct damages and subsequent negative impacts to the area if future floods were to occur. Both costs and benefits are computed on a net present value basis.

(b) Be in conformance with 44 CFR part 9, Floodplain Management and Protection of Wetlands; Executive Order 12699, Seismic Safety of Federal and Federally Assisted or Regulated New Building Construction; 44 CFR part 10, Environmental Considerations; and any applicable environmental laws and regulations.

(c) Be technically feasible.

(d) Be in conformance with the minimum standards of the NFIP Floodplain Management Regulations at 44 CFR part 60.

(e) Be in conformance with the Flood Mitigation Plan; the type of project being proposed must be identified in the plan.

(f) Be located physically in a participating NFIP community that is not on probation or must benefit such community directly by reducing future flood damages.

### § 78.12 Eligible types of projects.

The following types of projects are eligible for funding through FMA, providing they meet all other eligibility criteria.

(a) Acquisition of insured structures and underlying real property in fee simple and easements restricting real property to open space uses.

(b) Relocation of insured structures from acquired or restricted real property to non hazard-prone sites.

(c) Demolition and removal of insured structures on acquired or restricted real property.

(d) Elevation of insured residential structures in accordance with 44 CFR 60.3.

(e) Elevation or dry floodproofing of insured non-residential structures in accordance with 44 CFR 60.3.

(f) Other activities that bring an insured structure into compliance with the floodplain management requirements at 44 CFR 60.3.

(g) Minor physical flood mitigation projects that reduce localized flooding problems and do not duplicate the flood prevention activities of other Federal agencies.

(h) Beach nourishment activities.

#### § 78.13 Grant administration.

(a) FEMA may contribute up to 75 percent of the total eligible costs of each grant. At least 25 percent of the total eligible costs will be provided from a nonFederal source. Of this amount, not more than one half will be provided from in-kind contributions. Allowable costs will be governed by OMB Circular A-87 and 44 CFR part 13.

(b) The grantee must submit performance and financial reports to FEMA and must ensure that all subgrantees are aware of their responsibilities under 44 CFR part 13.

(c) FEMA will recapture any funds provided to a State or a community under FMA and deposit the amounts in the National Flood Mitigation Fund if the applicant has not provided the appropriate matching funds, the approved project has not been completed within the timeframes specified in the grant agreement, or the completed project does not meet the criteria specified in the regulations in this part.

[62 FR 13347, Mar. 20, 1997, as amended at 74 FR 15343, Apr. 3, 2009]

#### § 78.14 Alternative procedures.

For the purposes of this part, alternative procedures are available which allow the community to coordinate directly with FEMA in implementing the program. These alternative procedures are available in the following circumstances. Native American tribes or authorized tribal organizations may submit plans and applications to the State POC or directly to the FEMA Regional Administrator. If a Governor chooses not to identify a POC to coordinate the FMA, communities may also submit plans and applications to the FEMA Regional Administrator.

## PART 79—FLOOD MITIGATION GRANTS

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AUTHORITY: 6 U.S.C. 101; 42 U.S.C. 4001 *et seq.*; 42 U.S.C. 4104c, 4104d; Reorganization Plan No. 3 of 1978, 43 FR 41943, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376; E.O. 12148, 44 FR 43239, 3 CFR, 1979 Comp., p. 412; E.O. 13286, 68 FR 10619, 3 CFR, 2003 Comp., p. 166.

SOURCE: 72 FR 61738, Oct. 31, 2007, unless otherwise noted.

#### § 79.1 Purpose.

(a) The purpose of this part is to prescribe actions, procedures, and requirements for administration of the hazard mitigation grant programs made available under the National Flood Insurance Act of 1968, as amended, and the Flood Disaster Protection Act of 1973, as amended, 42 U.S.C. 4001 *et seq.* The Severe Repetitive Loss (SRL) and Flood Mitigation Assistance (FMA) grant programs mitigate losses from floods, minimizing impacts to the National Flood Insurance Fund (NFIF). The rules in this part apply to the administration of funds under the SRL and FMA programs for which the application period opens on or after December 3, 2007. Prior to this date, the administration of funds under the FMA program shall be subject to the rules in part 78 of this subchapter.

(b) The purpose of the SRL program is to:

(1) Assist State and local governments in funding actions that reduce or eliminate the risk of flood damage to residential properties insured under the National Flood Insurance Program (NFIP) that meet the definition of severe repetitive loss property;