

§ 79.4

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Act of 1994, 25 U.S.C. 479a, applying through the State, will assume the responsibilities of the community (as the subapplicant or subgrantee) described in paragraphs (d)(2) through (4) of this section.

(d) *Community.* The community (referred to as both subapplicant and subgrantee) will:

(1) Prepare and submit a FEMA-approved Local Mitigation Plan, consistent with the requirements of part 201 of this chapter;

(2) Complete and submit subgrant applications to the State POC for FMA planning, project and management cost subgrants, and for SRL project and management cost subgrants;

(3) Implement all approved subgrants; notifying each holder of a recorded interest in severe repetitive loss properties when an offer of mitigation assistance has been made under the SRL program, and when such offer has been refused; and

(4) Comply with program requirements under this part, grant management requirements identified under part 13 of this chapter, the grant agreement articles, and other applicable Federal, State, tribal and local laws and regulations.

§ 79.4 Availability of funding.

(a) *Allocation.* (1) For the amount made available for the SRL program, the Administrator will allocate the available funds to States each fiscal year based upon the percentage of the total number of severe repetitive loss properties located within that State. Ten percent of the total funds made available in any fiscal year will be made available to States and Indian tribal applicants that have at least 1 SRL property and that receive little or no allocation.

(2) For the amount made available for the FMA program, the Administrator will allocate the available funds each fiscal year. Funds will be distributed based upon the number of NFIP policies, repetitive loss structures, and any other such criteria as the Administrator may determine are in the best interests of the NFIF.

(i) A maximum of 7.5 percent of the amount made available in any fiscal year may be allocated for FMA plan-

ning grants nationally. 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 subapplicant. The total planning grant made in any fiscal year to any State, including all communities located in the State, will not exceed \$300,000.

(ii) The total amount of FMA project grant funds provided during any 5-year period will not exceed \$10,000,000 to any State agency(s) 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. The Administrator may waive the limits of this subsection for any 5-year period when a major disaster or emergency is declared pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act for flood conditions.

(b) *Redistribution.* Funds allocated to States who choose not to participate in either the FMA or SRL program in any given year will be reallocated to participating States and Indian tribal applicants. Any funds allocated to a State, and the communities within the State, which have not been obligated within the timeframes established by the Administrator, shall be redistributed by the Administrator to other States and communities to carry out eligible activities in accordance with this part.

(c) *Cost Share.* All mitigation activities approved under the grant will be subject to the following cost-share provisions:

(1) FEMA may contribute up to 75 percent of the eligible cost of activities for grants approved for funding; or

(2) FEMA may contribute up to 90 percent of the cost of the eligible activities for each severe repetitive loss property for which grant amounts are provided if the applicant has an approved Mitigation Plan meeting the repetitive loss requirements identified in § 201.4(c)(3)(v) or § 201.7(c)(3)(vi) of this chapter, as applicable, at the time the project application is submitted;

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(3) For the FMA program only, of the non-Federal contribution, not more than one half will be provided from in-kind contributions.

[72 FR 61738, Oct. 31, 2007, as amended at 74 FR 47481, Sept. 16, 2009]

§ 79.5 Application process.

(a) *Applicant or grantee.* (1) States will be notified of the amount allocated to them for the SRL and FMA programs each fiscal year, along with the application timeframes.

(2) The State will be responsible for soliciting applications from eligible communities, or subapplicants, and for reviewing and prioritizing applications prior to forwarding them to FEMA for review and award.

(3) Participation in these flood mitigation grant programs is voluntary, and States may elect not to participate in either the SRL or FMA program in any fiscal year without compromising their eligibility in future years.

(4) Indian tribal governments interested in applying directly to FEMA for either the FMA or SRL program grants should contact the appropriate FEMA Regional Administrator for application information.

(b) *Subapplicant or subgrantee.* Participation in the SRL and the FMA program is voluntary, and communities may elect not to apply. Communities or other subapplicants who choose to apply must develop applications within the timeframes and requirements established by FEMA and must submit applications to the State.

§ 79.6 Eligibility.

(a) *Eligible applicants and subapplicants.* (1) States, Indian tribal governments, and communities participating in the NFIP may apply for FMA planning and project grants and associated management costs.

(2) States, Indian tribal governments, and communities participating in the NFIP may apply for SRL project grants and associated management costs.

(3) Communities withdrawn, suspended, or not participating under part 60 of this subchapter of the NFIP are not eligible for either the FMA or SRL programs.

(b) *Plan requirement.* (1) States must have an approved State Mitigation Plan meeting the requirements of §§201.4 or 201.5 of this chapter in order to apply for grants through the FMA or SRL programs. Indian Tribal governments must have an approved plan meeting the requirements of § 201.7 of this chapter at the time of application.

(2) In order to be eligible for FMA and SRL project grants, subapplicants must have an approved mitigation plan at the time of application in accordance with part 201 of this chapter that, at a minimum, addresses flood hazards.

(c) *Eligible activities.* (1) *Planning.* FMA planning grants may be used to develop or update State, Indian tribal and/or local mitigation plans which meet the planning criteria outlined in part 201 of this chapter. FMA planning grants are limited to those activities necessary to develop or update the flood portion of any mitigation plan. Planning grants are not eligible for funding under the SRL program.

(2) *Projects.* Projects funded under the SRL program are limited to those activities that specifically reduce or eliminate flood damages to severe repetitive loss properties. Projects funded under the FMA program are limited to activities that reduce flood damages to properties insured under the NFIP. For either program, applications involving any activities for which implementation has already been initiated or completed are not eligible for funding, and will not be considered. Eligible activities are:

(i) Acquisition of real property from property owners, and demolition or relocation of buildings and/or structures to areas outside of the floodplain to convert the property to open space use in perpetuity, in accordance with part 80 of this subchapter;

(ii) Elevation of existing structures to at least base flood levels or higher, if required by FEMA or if required by any State or local ordinance, and in accordance with criteria established by the Administrator;

(iii) Floodproofing of existing non-residential structures in accordance with the requirements of the NFIP or higher standards if required by FEMA