

(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;

(2) Reduce the need to increase flood insurance premiums of NFIP policyholders that would otherwise be required to pay for potential future repetitive claims associated with severe repetitive loss properties; and

(3) Reduce loss of life, property damage, outlays for the NFIP, and Federal disaster assistance by reducing or eliminating the risk of flood damage to those insured properties that have historically experienced the most severe flood losses.

(c) The purpose of the FMA program is to assist State and local governments in funding cost-effective actions that reduce or eliminate the risk of flood damage to buildings, manufactured homes, and other structures insured under the NFIP.

#### § 79.2 Definitions.

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

(b) *Applicant* is the State or Indian tribal government applying to FEMA for a grant, and which will be accountable for the use of the funds.

(c) *Community* means:

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

(2) A political subdivision of a State, or other authority that is designated by a political subdivision to develop and administer a mitigation plan.

(d) *Grantee* means the State or Indian tribal government to which FEMA awards a grant and which is accountable for the use of the funds provided. The grantee is the entire legal entity, even if only a particular component of the entity is designated in the grant award document.

(e) *Indian Tribal government* means any Federally recognized governing body of an Indian or Alaska Native Tribe, band, nation, pueblo, village, or community that the Secretary of Interior acknowledges to exist as an Indian Tribe under the Federally Recognized Indian Tribe List Act of 1994, 25 U.S.C.

479a. This does not include Alaska Native corporations, the ownership of which is vested in private individuals.

(f) *Market Value* is generally defined as the amount in cash, or on terms reasonably equivalent to cash, for which in all probability the property would have sold on the effective date of the valuation, after a reasonable exposure time on the open competitive market, from a willing and reasonably knowledgeable seller to a willing and reasonably knowledgeable buyer, with neither acting under any compulsion to buy or sell, giving due consideration to all available economic uses of the property at the time of the valuation.

(g) *Multifamily Property* means a property consisting of 5 or more residences.

(h) *Severe Repetitive Loss Properties* are defined as single or multifamily residential properties that are covered under an NFIP flood insurance policy and:

(1) That have incurred flood-related damage for which 4 or more separate claims payments have been made, with the amount of each claim (including building and contents payments) exceeding \$5,000, and with the cumulative amount of such claims payments exceeding \$20,000; or

(2) For which at least 2 separate claims payments (building payments only) have been made under such coverage, with cumulative amount of such claims exceeding the market value of the building.

(3) In both instances, at least 2 of the claims must be within 10 years of each other, and claims made within 10 days of each other will be counted as 1 claim.

(i) *Subapplicant* means a State agency, community, or Indian tribal government submitting an application for planning or project activity to the applicant for assistance under the FMA or SRL programs. Upon grant award, the subapplicant is referred to as the subgrantee.

(j) *Subgrant* means an award of financial assistance made under a grantee to an eligible subgrantee.

(k) *Subgrantee* means the State agency, community, or Indian tribal government or other legal entity to which