

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(3) Communities withdrawn, suspended, or not participating under part 60 of this subchapter of the NFIP are not eligible for either the FMA or SRL programs.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

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or if required by any State or local ordinance, and in accordance with criteria established by the Administrator;

(iv) Floodproofing of historic structures as defined in §59.1 of this subchapter;

(v) For SRL only, demolition and rebuilding of properties 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; and

(vi) Minor physical localized flood reduction measures that lessen the frequency or severity of flooding and decrease predicted flood damages, and that do not duplicate the flood prevention activities of other Federal agencies. Major flood control projects such as dikes, levees, floodwalls, seawalls, groins, jetties, dams and large-scale waterway channelization projects are not eligible.

(d) *Minimum project criteria.* In addition to being an eligible project type, mitigation grant projects must also:

(1) Be in conformance with mitigation plans approved under part 201 of this chapter for the State and community where the project is located;

(2) Be in conformance with part 9 of this chapter, Floodplain management and protection of wetlands, part 10 of this chapter, Environmental considerations, §60.3 of this subchapter, Flood plain management criteria for flood-prone areas, and other applicable Federal, State, tribal, and local laws and regulations;

(3) Be technically feasible;

(4) Solve a problem independently, or constitute a functional portion of a long-term solution where there is assurance that the project as a whole will be completed. This assurance will include documentation identifying the remaining funds necessary to complete the project, and the timeframe for completing the project;

(5) Be cost-effective and reduce the risk of future flood damage;

(6) Consider long-term changes to the areas and entities it protects, and have manageable future maintenance and modification requirements. The subgrantee is responsible for the continued maintenance needed to preserve the

hazard mitigation benefits of these measures; and

(7) Not duplicate benefits available from another source for the same purpose or assistance that another Federal agency or program has more primary authority to provide.

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### §79.7 Offers and appeals under the SRL program.

(a) *Consultation.* States and communities shall consult, to the extent practicable, and in accordance with criteria determined by the Administrator, with owners of the severe repetitive loss properties to select the most appropriate eligible mitigation activity. These consultations shall be initiated in the early stages of the project development, and shall continue throughout the process. After FEMA awards the project grant, the subgrantee shall continue to consult with the property owners to determine the specific conditions of the offer.

(b) *Mitigation offer.* After FEMA awards the grant and the subgrantee completes final consultations with the property owners, the subgrantee shall develop and present official offers to the property owners participating in the mitigation activities.

(1) The offer shall include all pertinent information regarding the mitigation activity, including a detailed description of the activity (*e.g.* property acquisition, elevation), the responsibilities of and benefits to the property owner, a summary of the consultation process, timeframes, and the consequences of refusing such offer. For open space acquisitions, it will also include the market value of the property, the basis for the purchase offer, and the final offer amount. The offer will also clearly state that the property owner's participation in the SRL program is voluntary.

(2) The subgrantee will send the written offer to the property owner's current mailing address as a certified letter, along with a copy to the appropriate FEMA Regional Administrator. In addition, the subgrantee will notify each holder of a recorded interest on the property when such offer is extended, along with the identification of