



Learning How to Navigate the “Strings” that Come with FEMA Financial Aid

*Hosted by the Rates & Finance Committee
(FSAWWA)*



INTRODUCTIONS



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Robert T. Stafford Disaster Relief and Emergency Assistance Act as Amended (Stafford Act), Title 42:

Authorizes the President to provide Federal assistance when the magnitude of an incident or threatened incident exceeds the affected State, Territorial, Indian Tribal, and local government capabilities to respond or recover.

Role and Responsibilities for FEMA Assistance



FEMA

FEMA: The federal awarding agency authorized to manage the program.



Recipients: The State, Territorial, or Tribal government that receives funding under the disaster declaration and disburses funding to approved subrecipients.



Applicants: Entities submitting a request for assistance under the recipient's federal award.



Subrecipients: Applicants who have received a subaward from the Recipient and is then bound by the conditions of the award and subaward.

TYPES OF DECLARED INCIDENTS

- **Emergency Declaration:** any instance that the President determines warrants emergency assistance to save lives, protect property, and protect public health and safety (ex: COVID-19 pandemic)
- **Major Disaster Declaration:** natural catastrophe such (ex. hurricane, tornado, flood, tidal wave, tsunami, earthquake, wildfire, etc.)
 - Declaration will designate which **specific areas** (e.g., county, parish, city, or Indian Tribal Government) are eligible to receive Federal assistance
 - Declaration will designate an **incident period** during which the federally declared incident occurs

TYPES OF FEMA ASSISTANCE

- Individual Assistance (IA): Provides assistance to individuals and households
- **Public Assistance (PA): Provides assistance to State, Territorial, Tribal, local governments, and private not for profits (PNPs)**
- Fire Management Assistance Grant (FMAG): Provides assistance for wildfire declarations (separate and distinct program within FEMA)

CATEGORIES OF WORK

Emergency Work

Address an immediate threat:

- A** Debris removal
- B** Emergency protective measures

Permanent Work

Restoration of:

- C** Roads/bridges
- D** Water control facilities
- E** Buildings/equipment
- F** Utilities
- G** Parks, recreational, and other facilities

Emergency work must be completed within 6 months

Permanent work must be completed within 18 months

FEDERAL / NON-FEDERAL COST SHARES

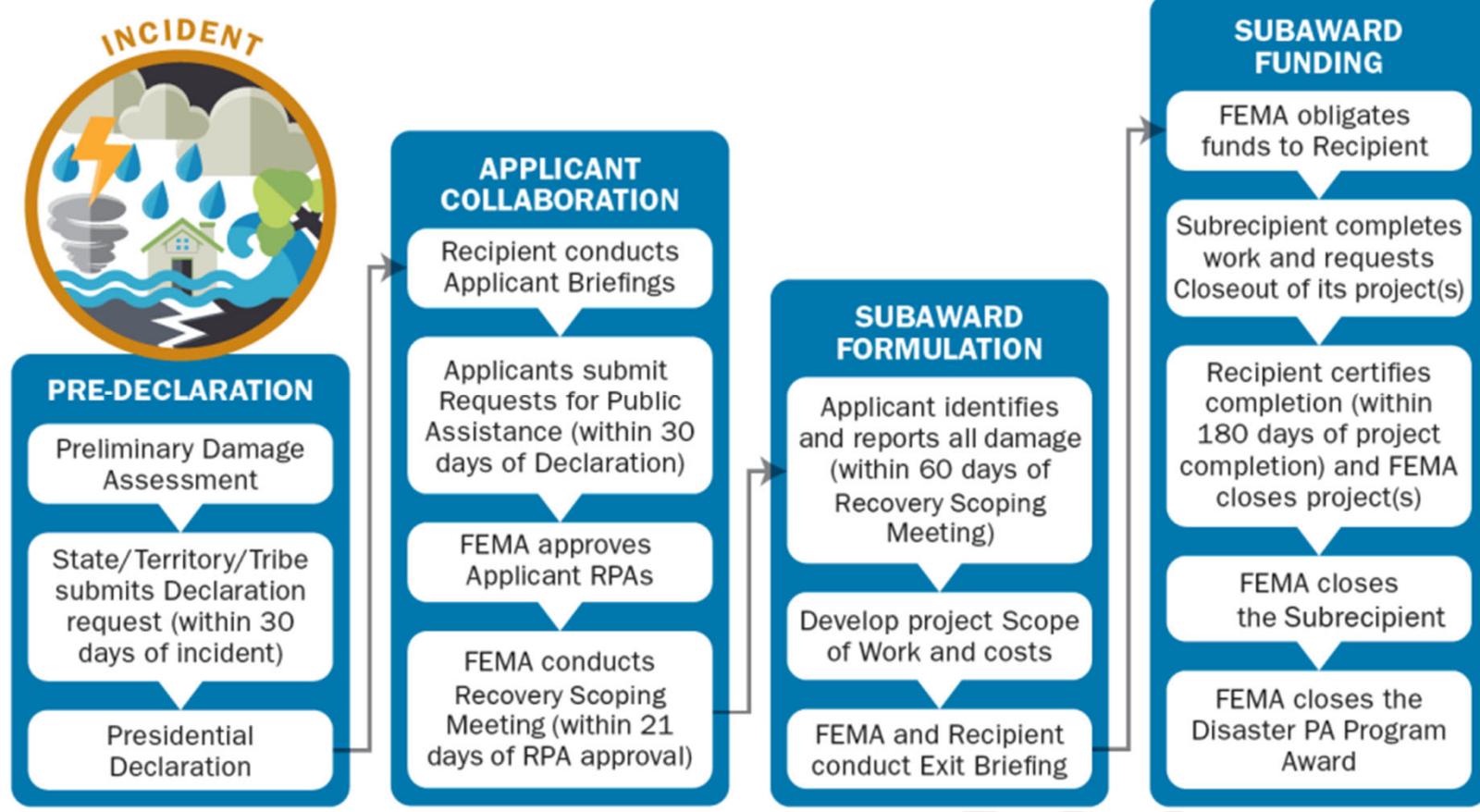
*WHAT DO LOCAL GOV'TS/PNPS PAY?

Total Damages for Local Government = \$100 M		
Federal Cost Share	Non-Federal Florida (State) Cost Share	Local Government Non-Federal Cost Share
\$75 M*	\$12.5 M	\$12.5 M

Take away: even with Federal assistance, disasters are costly and typically require local match

**Note: Federal Cost Share based on assumption that local government/PNP documentation complete, process in compliance with CFR 200 Uniform Guidance, and State/FEMA validate all costs incurred*

FEMA PA PROGRAM IMPLEMENTATION PROCESS



PRE-DECLARATION PROCESS

- Preliminary Damage Assessment (PDA)
- State/Territory/Tribe gathers and submits summary of total damages within 30 days of incident
- Through this process State will coordinate with local governments and request information about local damages including damage to private property, county/municipal infrastructure, resources needed, etc.



Preliminary Damage Assessment Report

Florida – Hurricane Dorian FEMA-4468-DR

Declared October 21, 2019

On October 7, 2019, Governor Ron DeSantis requested a major disaster declaration due to Hurricane Dorian during the period of August 28 to September 9, 2019. The Governor requested a declaration for Public Assistance, including direct Federal assistance for 24 counties and Hazard Mitigation statewide. During the period of September 16 to October 3, 2019, joint federal, state, and local government Preliminary Damage Assessments (PDAs) were conducted in the requested areas and are summarized below. PDAs estimate damages immediately after an event and are considered, along with several other factors, in determining whether a disaster is of such severity and magnitude that effective response is beyond the capabilities of the state and the affected local governments, and that Federal assistance is necessary.¹

Take Away: Coordination between state and local governments through pre-declaration process is vital to establish the overall need for a Presidential Declaration.

APPLICANT COLLABORATION & PUBLIC ASSISTANCE

- State will meet with local governments to provide Applicant Briefings for PA process
- Applicants (local governments, PNPs) must prepare and submit Request for Public Assistance (RPA) within 30 days of Declaration
- FEMA will review/approve applicant submittals for RPA
- Within 21 days of approval of RPA, FEMA will meet with applicants to conduct Scoping Meeting
 - Scoping meeting is often the first opportunity for local governments/PNPs to present FEMA directly with scale and severity of damages under the Declaration. This meeting is also typically the first introduction of local staff to their Federal recovery partners and the FEMA PA process.

Take Away: The Scoping Meeting is most effective when local governments come prepared with a basic understanding of the purpose and ready to highlight their most pressing issues, challenges, and concerns to FEMA.



FEMA

SUBAWARD FORMULATION DAMAGES

- Within 60 days of scoping meeting, applicant (local government/PNPs) must report **ALL** damages to FEMA
 - This includes a comprehensive list of all damages owned by the applicant
 - For local governments this means an inventory of all damaged structures, utilities, facilities, and other infrastructure (parks, sidewalks, water, sewer, roadways, bridges, stormwater, government buildings, schools, etc.)
 - Any damages not submitted to FEMA within the 60 days **WILL NOT** be eligible for PA



BEFORE AN INCIDENT

- Perform detailed asset management inventory of all infrastructure/structures and condition;
- Procure consultant(s) for local staff augmentation so that contracts are already in place for activation post-incident;
- Collect and file documentation of property, infrastructure, assets, etc. (plans, as-builts, maintenance records, etc.);

SUBAWARD FORMULATION: SCOPE OF WORK AND COST ESTIMATION

Develop written scope of work and cost estimate for repairs/replacement

Develop written scope of work and cost estimate for repairs/replacement

- FEMA PA requirement
- Any portion of scope not submitted to FEMA during this step will NOT be eligible for PA unless approved through an amendment
- Scope and Cost phase of project development can take months to years
- This process must be completed for every project repair/replacement requested under PA

IF $\frac{\text{Repair Cost}}{\text{Replacement Cost}} < 50\% \text{ THEN only the repair cost is eligible}$

IF $\frac{\text{Repair Cost}}{\text{Replacement Cost}} > 50\% \text{ THEN only the replacement cost is eligible}$

SUBAWARD FORMULATION – FEMA CEF FORM

- Regardless as to who develops, the cost estimate must be converted into FEMA's CEF format and includes:
 - Written scope
 - Detailed line estimate of Work Completed
 - Detailed line estimate of Uncompleted Work
 - Soft Costs (mobilization, Constructability, Access/Staging, Cost Escalation, Change Order Contingencies, Design/Engineering Costs, etc.)
 - Cost summary with total for requested obligation through PA

Take Away: It often takes months to years for the applicant and FEMA to negotiate this phase of project development prior to the project moving forward. Many applicants rely on consultants to assist and represent them throughout this process to ensure obligation is in best interest of the applicant.

SUBAWARD FORMULATION: SCOPE OF WORK AND COST ESTIMATION

Develop committed scope of work and cost estimate for repairs/replacement

TWO OPTIONS for scope of work and cost estimation:

o Any portion of scope can be submitted to FEMA during this step will be eligible for PA unless approved

Option 1: FEMA develops the scope of work and cost estimate for the applicant

- Considerations
 - o FEMA utilizes RS Means which significantly underestimates actual costs
 - o FEMA may not fully understand scope of work including local codes and standards
 - FEMA takes months to develop projects
 - FEMA does not understand local priorities for project development

Option 2: Applicant develops project scope and cost estimate

- Considerations
 - Requires technical staff with understanding of project requirements (internal or consultant)
 - FEMA will validate and may not agree with scope and/or cost

SUBAWARD FORMULATION – PROJECT TYPES

There are four types of FEMA PA projects:

- ① Small projects (\$139,800 or less)
- ② Large projects (greater than \$139,800)
- ③ Improved projects
- ④ Alternate projects (including 428)



Improved Project – large or small project for which applicant chooses to implement improvements not required by Codes and Standards or hazard mitigation measures; additional costs for these improvements are the responsibility of the applicant (not funded by PA)

Alternate project – large or small project for which applicant chooses an alternate scope of work than restoring facility to the pre-disaster condition

ALTERNATE PROJECTS UNDER 428 POLICY

After Hurricane Sandy, FEMA introduced the 428 policy for alternate projects.

Intent: To facilitate recovery by speeding up the process for project formulation, flexibility in project implementation, and easier project closeout.

Take Away: Pursuing the most appropriate project type for an applicant's needs directly correlates to recovery success. This requires deep-bench understanding of both PA policy and local government/PNP's needs.

428 Alternative Procedures Policy	Standard Project Policy
Fixed Cost project with use of excess funds.	Actual cost project. No retention of excess funds associated with obligated project amount.
May use excess funds across all Pilot (428 projects).	Can not share funds across projects.
After FEMA approves Scope of Work approval only required for changes that involve buildings 45 years or older, ground disturbing activities, or work in/near jurisdictional water/wetlands. (flexibility)	After FEMA approves Scope of Work, approval is required for ANY changes during implementation (not flexible).
Do not need to track costs of specific work items. Only need to track total costs associated with project.	Must track costs specific to each work item (line item) within each individual project.
Do not need to track costs associated with changes to the Scope of Work.	Must track costs associated with all changes in the Scope of Work.
Do not need to track work to specific projects. Only need to substantiate that the work is related to the approved Scope of Work.	Must track all work for each individual project.
Allows 406 hazard mitigation be applied to replacement facilities.	Unless mitigation measure specifically listed in Appendix J, 406 mitigation can only be applied to repair projects (not replacement).

ALTERNATE PROJECTS UNDER 428 POLICY

Advantages:

- Applicant can retain excess funds and apply these to other PA projects
- Less detailed documentation and greater flexibility for implementation
- 406 mitigation can be applied to replacement projects under alternate procedures

Disadvantages:

- Fixed Cost offer caps funding through PA regardless of actual project costs
- New policy is not implemented consistently across FEMA regions (some regions have less understanding of process/intent)

Best Practices:

- Engage local contractors early and solicit bids
- Submit ACTUAL scope of work to FDEM and FEMA for EHP review EARLY

SUBAWARD FORMULATION – PROJECT TYPES

Regardless of type of project, the **FEMA Project Development** Process is as follows:



SUBAWARD FORMULATION – HAZARD MITIGATION

“BUILD IT
BACK BETTER”

- What is mitigation?
 - Any sustained action taken to reduce or eliminate the long-term risk to life and property from hazard events. This process takes place before, during, and after disasters and serves to break the cycle of damage and repair in hazardous areas.
- Why is important?
 - Disasters are costly and there is a non-federal cost share that the applicant must pay
 - Hazard Mitigation can reduce future costs by minimizing risk of future damages
 - By implementing measures to make systems/communities more resilient against future incidents, the next incident will not be as costly

SUBAWARD FORMULATION – HAZARD MITIGATION

FEMA has multiple programs to fund hazard mitigation.

- Only 406 Mitigation is eligible under PA
- All other hazard mitigation programs (404, NFIA, and 203) are funded under FEMA's Hazard Mitigation Assistance Programs which are competitive programs.

Stafford Act Section 406	Stafford Act Section 404	National Flood Insurance Act of 1968 NFIA	Stafford Act Section 203
PA Program <i>Disaster-related program</i>  PA: Mitigation of incident caused damage Funding: Available for disaster-damaged facilities only* NOTE: PA = Public Assistance HMA = Hazard Mitigation Assistance HMGP = Hazard Mitigation Grant Program	PA Program <i>Disaster-related program</i>  HMGP: Multi-hazard, statewide mitigation Funding: Available for damaged and non-damaged facilities based on a percentage of dollars obligated to the PA and IA programs	HMA Programs <i>Non-disaster-related programs</i>  FMA: Flood mitigation for insured properties	HMA Programs <i>Non-disaster-related programs</i>  PDM: Multi-hazard, project-specific

* See exception for Alternative Procedure Projects in Chapter 2, Section VII.G.4(c).

Take Away: FEMA has dedicated significant resources to mitigation. Understanding the funding availability/options ensures being able to leverage these programs to build back better.

SUBAWARD FORMULATION – HAZARD MITIGATION

Eligibility Requirements for 406 Mitigation:

- Only applies to repairs (not replacement) unless an Alternate Procedures Project (i.e., 428 project)
- Must directly reduce the potential of future and similar damages to the facility
- Must be technically feasible
- Must comply with Environmental & Historic Preservation (EHP) laws and regulations

Take Away: In order to pursue 406 mitigation, additional steps may be required to show eligibility. This requires additional resources and effort, however, ultimately, implementing mitigation can reduce costs in the future.



Must be cost effective and;

- Cost for mitigation must not exceed 15% of the total eligible repair costs
- Mitigation measure must be specifically listed in Appendix J: Cost-effective Hazard Mitigation Measures
- Demonstrated as cost-effective through a benefit-cost analysis (BCA) utilizing FEMA's methodology (FEMA's BCA software version 6.0)

SUBAWARD FUNDING OBLIGATION, IMPLEMENTATION, & CLOSEOUT

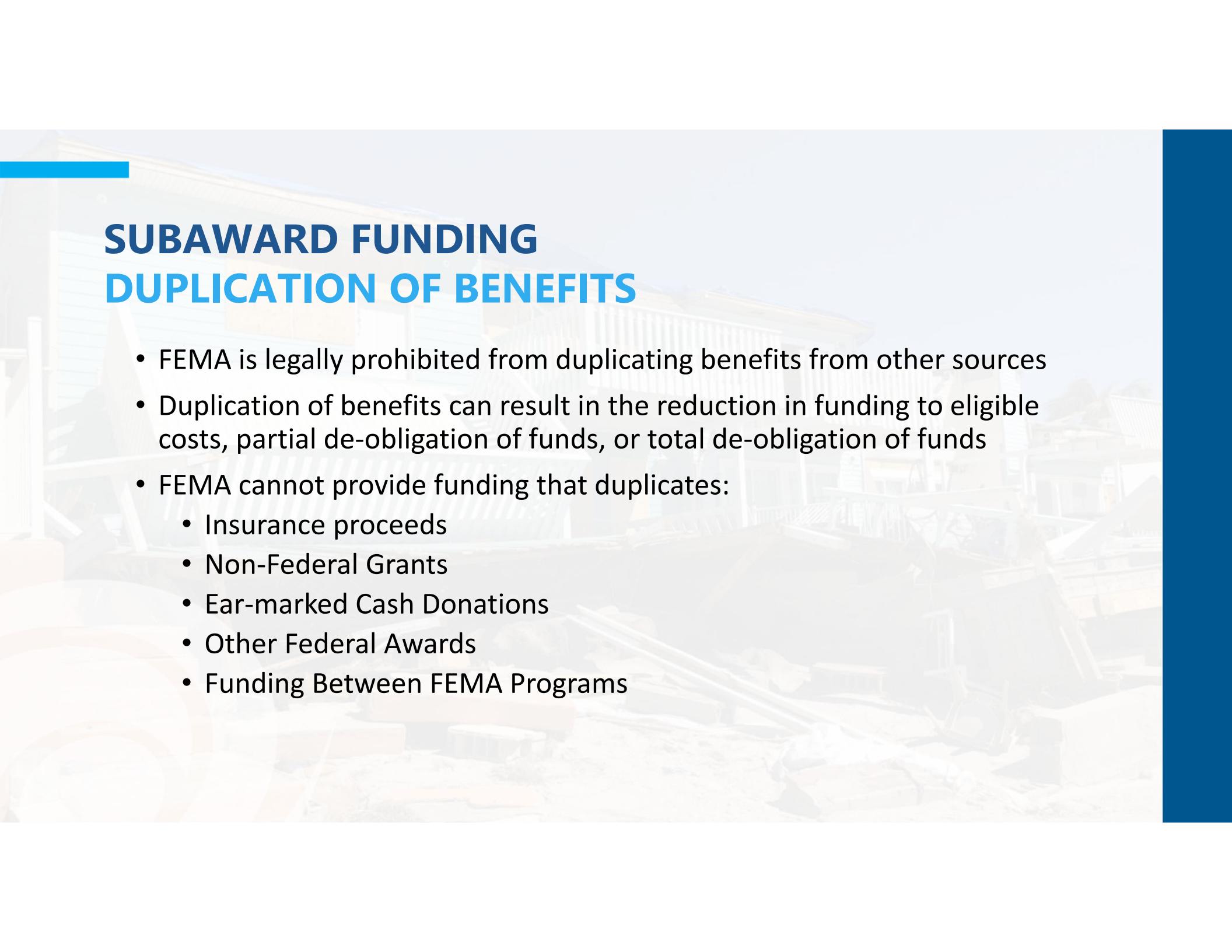


- Once work is complete, the subrecipient must notify FEMA within 180 days of project completion
 - Does the FEMA scope of work match the design/constructed?
 - Are ALL permits in place?
 - Have all LOCAL procurement requirements been adhered to IN ADDITION TO Federal requirements including:
 - 2 CFR 200 Uniform Guidance applies to PA funded projects and establishes federal requirements for competitive procurement;
 - Procurement, bids, change orders, pay requests, direct purchases, etc. must be documented and submitted with requests for reimbursement through PA?
- The State and FEMA will review each request to validate the scope, cost, and expenditures

SUBAWARD FUNDING POTENTIAL CONCERNS



- All work must follow all applicable Federal, State, and Local Environmental and Historic Preservation (EHP) laws
 - Permits, permissions, and/or concurrence statements may need to be obtained from various Federal, State, and Local agencies, including:
 - US Army Corps of Engineers
 - US Fish and Wildlife Service
 - Florida State Historic Preservation Office
 - Florida Department of Environmental Protection
 - Failure to comply with these policies prior to starting work may lead to loss of funding
- Damages that cannot be proven as being caused by the incident will be considered ineligible
 - Maintenance records, inspection reports, and third-party sourced images and documents may be referenced to make those determinations

A faint watermark of the FEMA logo is visible in the background of the slide, showing a stylized building and the letters "FEMA".

SUBAWARD FUNDING DUPLICATION OF BENEFITS

- FEMA is legally prohibited from duplicating benefits from other sources
- Duplication of benefits can result in the reduction in funding to eligible costs, partial de-obligation of funds, or total de-obligation of funds
- FEMA cannot provide funding that duplicates:
 - Insurance proceeds
 - Non-Federal Grants
 - Ear-marked Cash Donations
 - Other Federal Awards
 - Funding Between FEMA Programs

MUTUAL AID ELIGIBILITY



- Defined by FEMA as 'a non-binding agreement between SLTT entities, where one entity desiring assistance is the 'Requesting Entity', with the jurisdiction providing the aid is the 'Providing entity'
- Requesting Entity must have jurisdictional responsibility for work/services performed by Providing Entity
- Providing Entity's straight-time and overtime labor are eligible, including fringe benefits
- Backfill of Providing Entity's overtime is eligible - Straight time for backfill personnel is not eligible
- FEMA Reimburses Equipment time based on the Mutual Aid agreement, or FEMA Equipment Rates
- FEMA will pay to repair damaged equipment- if properly Documented

MUTUAL AID REQUIREMENTS

Minimum Components for Inclusion Within Mutual Aid Assistance (MAA) Frameworks:

- Agency POCs
- Liability for parties
- Compensation
- Reimbursement
- Credentialing and qualifications
- Licensure and certification
- Mobilization
- Termination Language
- Documents for MA proof:
 - Written agreement
 - Services requested and received
 - Listed information of labor, supplies or equipment
 - Invoices



Benefits:

- Broadens available resources in terms of equipment and labor
- Ensures needed resources are deployed to locations most needed

ENSURING FEDERAL REIMBURSEMENT



MAA-related costs are eligible within PA Grants when used for:

- Emergency Work (A-B)
- Emergency utility restoration (regardless of Cat-B or F)
- Grant Management Activities (as defined per [FEMA Recovery Policy FP 104-11-2, Public Assistance Management Costs \(Interim\)](#))

MAA-related costs are ineligible when used for:

- Resources preparing to deploy; (pre-positioning is eligible, with caveats)
- Dispatch operations outside the receiving State, Territory, or Tribe;
- Training and exercises; and
- Support for long-term recovery and mitigation operations.
- Straight-time labor when the Requesting Entity and the Providing Entity are divisions within the same SLTT government

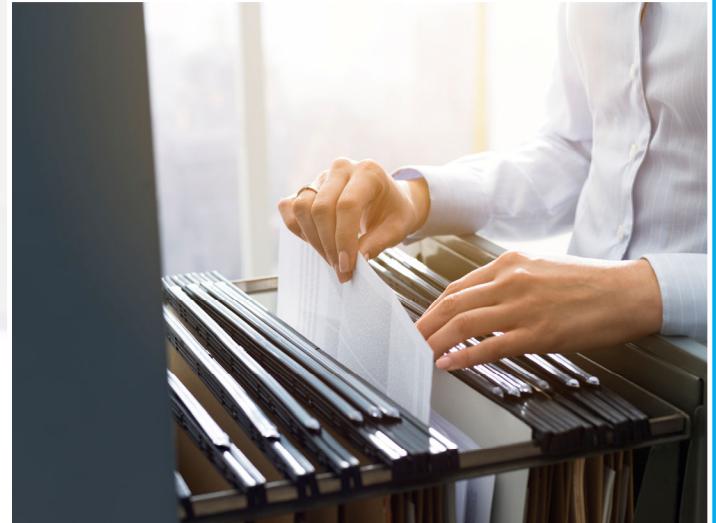
PROCESS AND DOCUMENTATION

- Mutual Aid Agreements pre-event are critical!
- Post Incident Agreements
 - When the Requesting and Providing Entities **do not have a written agreement**, OR where **such an agreement exists but is silent on reimbursement**, the entities may verbally agree on the resources to be provided and on the terms, conditions, and costs of such assistance.



PROCESS AND DOCUMENTATION

- Should be consistent with best practices described in FEMA NIMS Mutual Aid Guidelines (2017)
- PAPPG v4 doesn't specify a specific timeframe for signing an "after-the-fact" MAA other than prior to funding, but it should be done as quickly as possible.
- Prior to funding, the Requesting Entity must document the verbal agreement in writing, have it executed by an official of each entity with jurisdictional authority to request and provide assistance, and submit it to FEMA (preferably within 30 days of the Applicant's Briefing).



COMMON ISSUES IN REIMBURSEMENT

- Temporary Work vs. Permanent Work
- 214's and timesheets not matching
- Documentation not matching mutual aid agreements



ADMINISTRATIVE CASE MANAGEMENT

CATEGORY Z PROJECT



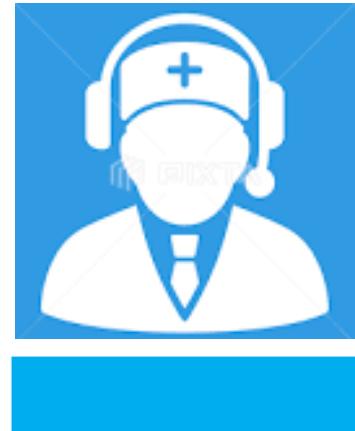
- FEMA PA allows 5% of total obligated project costs be utilized for administrative/grant management costs
- These costs are paid with 100% Federal cost share
- Many applicants utilize these funds to hire consultants to represent them and navigate the PA system
 - Disaster case managers listen, support, investigate, educate and advocate for applicants throughout this process
 - Disaster case managers can bridge the gap between local needs and state/federal partners throughout recovery

ADMINISTRATIVE CASE MANAGEMENT OVERVIEW



Case management activities specifically include:

- Site inspections
- Damage assessments
- Preparation of scope of work
- Cost estimates
- Hazard mitigation
- Bidding services and construction management
- Preparation of requests for reimbursement
- Requests for Information (RFI's)
- Project management within FEMA's Grants Portal
- Permitting
- Project Closeout and validation



BEYOND PA ADDITIONAL FUNDING SOURCES



Engage with the Interagency Recovery Coordination (IRC) group, State, consultants, property owners, and local stakeholders to pursue additional funding through other programs:



Building Resilient Infrastructure
and Communities (BRIC)



Flood Mitigation Assistance (FMA)



Hazard Mitigation Grant Program
(HMGP)



Pre-Disaster Mitigation (PMA)



Community Development Block
Program – Disaster Recovery
(CDBG-DR)



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THANK YOU!