

FEMA PUBLIC ASSISTANCE PROGRAM APPLICANT BRIEFING

Colorado Severe Storms, Flooding, Landslides, and Mudslides

Incident Start Date: 9/11/2013 and continuing

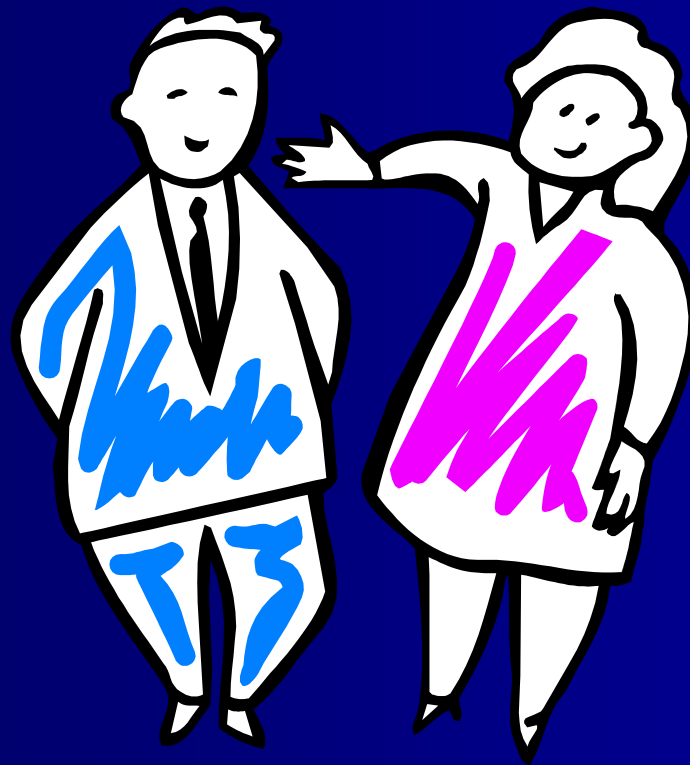
Declaration: DR-4145

Declared: 9/14/2013

Agenda

- Introductions
 - Be sure to sign the attendance sheet
- Applicant Briefing
 - Status of declarations
 - Expectation management
 - The process
 - Public Assistance Program
 - Opportunities
 - Hand in your Request for Public Assistance Form

INTRODUCTIONS



Status:

Counties Declared *So Far*

- Categories A & B: Adams, Weld
- Categories A - G: Boulder, Larimer
- Still reviewing other counties

Expectation Management

You will not be made whole.

The Public Assistance Program Mission: To provide supplemental financial assistance to state, local, and tribal governments, and certain private non-profit organizations for response and recovery activities required as the result of a declared disaster.

Funding is cost shared at a federal share of no less than 75% of eligible costs.

State Cost Share

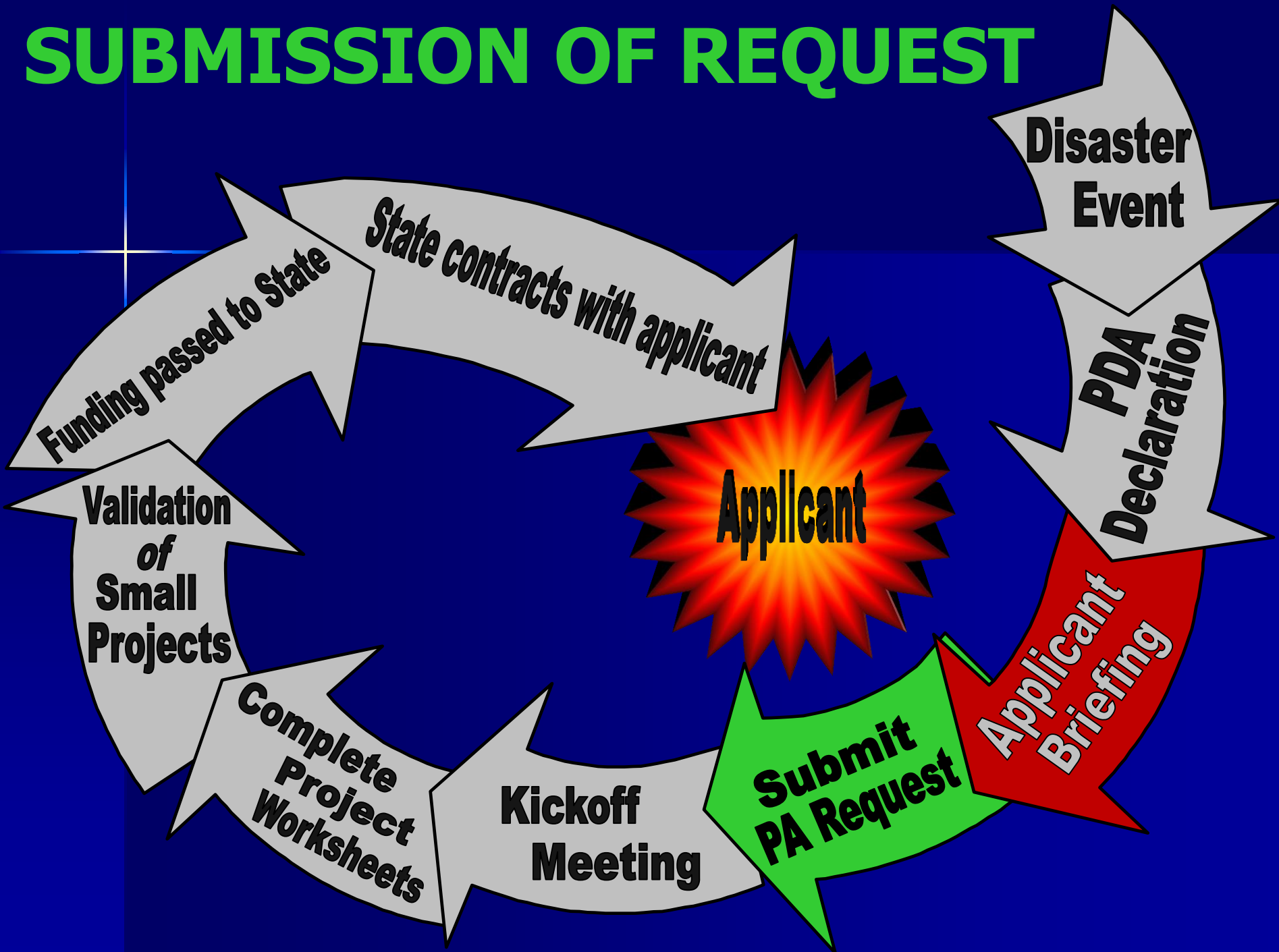
The following has been determined regarding state cost share for the FEMA Public Assistance (PA) Program:

State PA cost share for Categories A-G with local governments, including special districts: 12.5% (50% of the 25% non-Federal match) but if a local government has used all its reserves and TABOR Emergency Reserves, the state may increase cost share *up to* 90% of the 25% non-Federal match. Other state agencies will review local government finances to determine (verify) that reserves/emergency funds have been expended.

There is no PA cost share with non-profit organizations (PNPs).

**WHERE YOU ARE IN
THE PROCESS**

SUBMISSION OF REQUEST



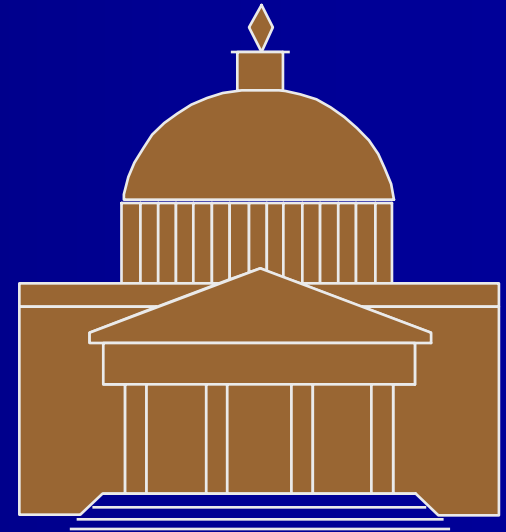
The Program

Factors of Eligibility

- **Applicant**
- **Facility**
- **Work**
- **Cost**

Eligible Applicants

- State Government Agencies
- County Governments
- Municipal Governments
- Tribal Governments
- Special Districts
- School Districts
- Certain Private Nonprofit Organizations



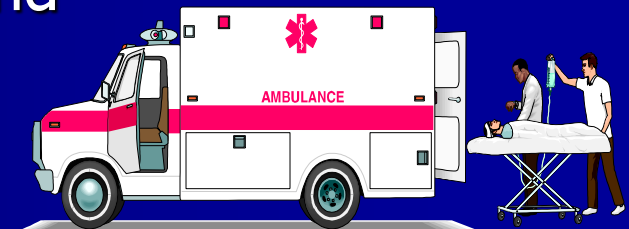
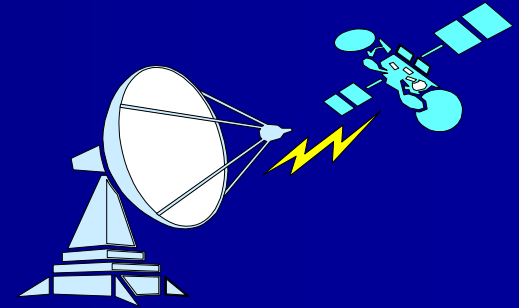
Eligible Applicants

Private Non-profit Organizations

- Critical
- Non-critical

Critical Services: *Private Non-Profit Organizations*

- Utilities: Energy, Water, Sewer, Wastewater Treatment etc.
- Communications
- Educational Institutions
- Emergency Medical
- Fire Protection
- Emergency Services, Ambulance and Rescue

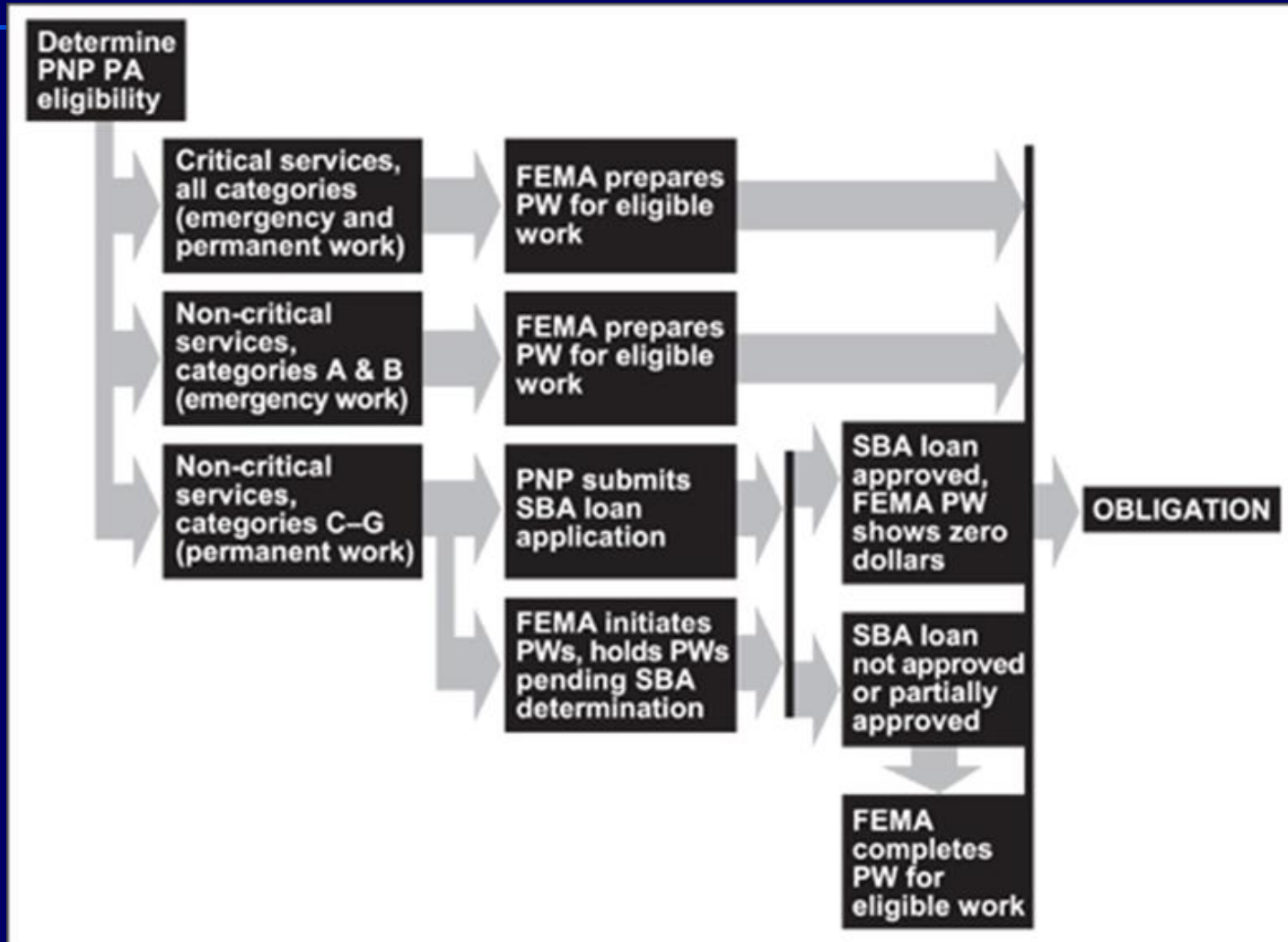


Non-Critical Services: *Private Non-Profit Organizations*

- Museums
- Zoos
- Performing Arts Facilities
- Community Centers
- Libraries
- Homeless Shelters
- Rehabilitation Facilities
- Senior Citizen Centers
- Shelter Workshops
- Health and Safety Services of a governmental nature

Eligible Applicants

Private Non-profit



Eligible Facilities

- A facility is defined as
 - Any publicly-owned or PNP-owned building, works, system, or equipment (built or manufactured); or
 - Certain improved and maintained natural features

Eligible Work Criteria

- Required as a result of declared disaster
- Located in designated disaster area
- Legal responsibility of eligible applicant - An eligible applicant must be legally responsible for the repair of the damaged facility or the performance of emergency services at the time of the disaster.
- No other Federal agency has specific authority

Types of Eligible Work

1. **Emergency Work**
(Categories A & B)
2. **Permanent Work**
(Categories C - G)



Work Categories

- A: Debris Removal
 - B: Emergency Protective Measures
-
- C: Roads and Bridges
 - D: Water Control Facilities
 - E: Buildings And Equipment
 - F: Utility Systems
 - G: Parks, Recreational, and Other

Eligible Costs

- Generally, costs that can be directly tied to the performance of eligible work are eligible
- Such costs must be:
 - Reasonable and necessary to accomplish the work
 - Compliant with Federal, State, and Local requirements for competitive procurement (including 44 CFR P 13) and
 - Reduced by all applicable credits, such as anticipated insurance proceeds and salvage values.

Labor Costs – Emergency Work

- Only overtime labor is eligible for:
 - Permanent employees
 - Seasonal employees
- Both regular time and overtime labor are eligible for non-budgeted employees assigned specifically to perform emergency work, including temporary employees

Labor Costs – Permanent Work

- For permanent work performed by an eligible applicant, both regular time and overtime are eligible for all employees.
- The applicant's pre-disaster written policies on overtime are used in determining cost eligibility
 - Cannot be contingent on federal funding or discretion

Force Account Equipment

- Equipment is eligible for regular time and overtime
- Standby time is ineligible
- Hourly costs for trucks, back-hoes, etc
- Mileage costs for automobiles
- Must use FEMA cost codes or your own cost codes, whichever is less

Materials

- The cost of supplies that were purchased or taken from an applicant's stock and used during performance of eligible work may be claimed
- Keep invoices and/or purchase orders
- Keep all cancelled checks
- Keep record of any inventory used from stock

Donated Resources

- Volunteer labor, donated equipment, and donated materials are eligible to offset the State and Local portion of cost share for emergency work (Cat A and B)
- The donated services must be documented and must include a record of hours worked, the work site, and a description of work

WHAT'S NEXT?

SUBMISSION OF REQUEST FOR PUBLIC ASSISTANCE

Applicants must submit a Request for Public Assistance (RPA)

Within 30 DAYS

From Declaration Date

(however, because counties are getting declared at different times, we expect to request an extension for those counties that haven't been declared yet)

Kickoff Meeting

- FEMA will assign a Public Assistance Coordinator (PAC)
- Eligibility will be confirmed
- The FEMA PAC will hold a kickoff meeting to discuss details of the PA Program
- You, the applicant, provides lists of damages and cost estimates from the disaster
- Bring a COPY of your Insurance Policy, if applicable

Project Worksheet (PW)

- Scope of work
- Estimates eligible cost
- Minimum PW is \$1,000
- Applicant's participation is vital

PW Review Process

- Project worksheet completion
- FEMA PAC reviews and approves it for submission
- PW entered into electronic database
- FEMA's special consideration reviews
 - Insurance Requirements
 - Hazard Mitigation
 - Environmental Requirements
 - Historic Preservation & Cultural Resources

PW Review Process

- Final Project Worksheet reviewed and approved by Applicant – requires sign-off
 - Ask questions if something doesn't make sense

- Exit Briefing Form – Signature by:
 - FEMA PAC Crew Leader
 - State Applicant Liaison
 - Applicant Representative

- Obligation of project worksheet

Grant Agreement Process

1. State prepares Grant Agreement between State and Applicant - sends 2 copies to Applicant – must be executed by Chief Elected Official
2. Approved Project Worksheets are the exhibits to Grant Agreement
3. State then executes Agreement – requires processing by Department Controller

This process takes time.....

REIMBURSEMENT

Cost Share

- The federal share is 75%
- The remaining non-federal share is the Grantee and Sub-grantees responsibility
- The cost share is stated in the grant agreement

Small vs. Large Projects

Public Assistance projects are processed as either small or large projects. If the project cost is less than the annually updated cost threshold amount (\$67,500 for FY 2013) the project is processed as a small project. If the project cost equals or exceeds the threshold the project is processed as a large project.

Small Projects

Federal cost share is paid upon project approval.

Funding is based on an initial cost estimate.

Large Projects

Federal cost share is paid as work is accomplished.

Final assistance is based upon actual costs or an estimate using the Cost Estimating Format.

Reimbursements – Small Projects

- Small Projects – payments will be processed by the State upon obligation – after execution of State Grant Agreement (or other funding conveyance)
- All small projects must be completed in accordance with the PW
- Failure to complete a project may require that the Federal payment be refunded!

Reimbursements – Large Projects

- Must submit Requests for Reimbursement to the State as work is completed, along with all required documentation and supporting payment records.
- State will provide further instructions on reimbursement process after execution of the State Grant Agreement

Project Validation

- For all large projects applicants should submit Request for Final Inspection 60 days after the physical work is 100% complete.
- Large Project Amount is \$67,500.

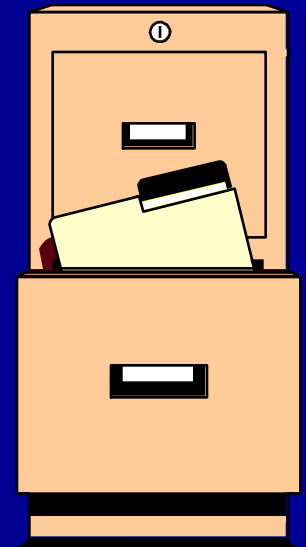
Administrative Allowance

- **Direct administrative cost specifically related to a PW**
- Cost must be reasonable and the level of effort reasonable for the type of work required.
- Example – Pay roll personnel collecting and tracking labor cost for staff performing emergency protective measures.

Record Keeping

Vital To Full Reimbursement

- Costs by PW for approved work
- FEMA has forms that assist in organizing and summarizing
- Original documentation required audit or program review
- Keep records for 3 years after closeout letter from State/FEMA



OPPORTUNITIES

Opportunities: Alternative Procedures for Debris Removal

Discuss these with your PAC

- A. If desirable, request Alternative Procedures for Debris Removal
- B. Accelerated Debris Removal-Increased Federal Cost Share (Sliding Scale)
- C. Recycling Revenues
- D. Straight Time Force Account Labor
- E. Debris Management Plans—must have been in place
[http://www.fema.gov/media-library-data/20130726-1921-25045-1092/public assistance alternative procedures pilot program guide for debris removal.pdf](http://www.fema.gov/media-library-data/20130726-1921-25045-1092/public_assistance_alternative_procedures_pilot_program_guide_for_debris_removal.pdf)

Opportunities: Permanent Work

Discuss this with your PAC

- Participation in the permanent work pilot is based on a Subgrantee agreeing to a fixed estimate subgrant; the pilot includes:
 - Grants Based on Fixed Estimates
 - Acceptance of Subgrantee Cost Estimates
 - Referral of Cost Estimates to Expert Panel
 - Consolidated Subgrants
 - Elimination of Alternate Project Penalty
 - Use of Excess Funds

Subgrantee is responsible for costs above the fixed estimate

Subgrantee has flexibility in use of funds within the fixed estimate

Opportunities: Mitigation

Discuss 406 with your PAC

- Section 404 - Hazard Mitigation Grant Program (HMGP) Not Public Assistance.
- Section 406 - Available as part of Public Assistance Applies only to damaged elements eligible under PA Permanent Work Projects determined to be “cost-effective” (eliminate the future threat of damage to a facility)

Opportunities: Improved Projects

Discuss with your PAC

- An Improved Project is any project (large or small) where the applicant chooses to make additional improvements to the facility while making disaster repairs. Applicants performing restoration work on a damaged facility may use the opportunity to make additional improvements while still restoring the facility to its pre-disaster design.
- For the most part, these are projects in which the funding for approved work cannot be tracked within the improved projects because of physical changes or contracting arrangements. For example, an applicant might propose laying asphalt on a gravel road or replacing a firehouse that originally had two bays with one that has three.

Opportunities: Alternate Projects

Discuss with your PAC

- The applicant may request approval of an alternate project from FEMA through the Grantee when an applicant determines that the public welfare would not be best served by either restoring a damaged facility or by restoring the function of a damaged facility. Either one of the two conditions must be met. *See 44 CFR 206.203(d)(2)*.
- The FEMA Regional Administrator must approve all alternate projects prior to the start of construction. *See 44 CFR 206.203(d)(2)(v)*.

Applicant Common Errors

Office of Inspector General (OIG) has noted the following frequent audit findings (see OIG report, October 2008):

- Poor Accounting Practices
- Unsupported Costs
- Duplication of Benefits
- Excessive Equipment Charges
- Excessive Labor and Fringe Benefit Charges
- Unrelated Project Charges
- Unapplied Credits
- Poor Contracting Practices

Contracting Requirements

Federal Regulations (44 CFR 13.36) requires that Grantee's and sub-grantee's comply with the following procurement standards:

- Competition is almost always required. Regardless of State or local exceptions during an emergency.
- The applicant must maintain records in sufficient detail to reflect the significant history of the procurement, including the rationale for the method of procurement, the basis for the contractor selection, and the basis for the contract price
- The applicant is prohibited from using time-and-material type contracts unless a determination is made that no other contract is suitable, and provided that the contract includes a ceiling price that the contractor exceeds at its own risk; and
- The applicant is prohibited from using a "cost plus a percentage of cost" contract.

TIMELINES

Timelines

- Applicant has 30 days from declaration date to submit RPA (requesting an extension)
- Applicant has 60 days from Kick Off meeting to identify damages
- Applicant has 60 days upon notification of a PW decision to appeal thru the State.

Timelines

- FEMA has 90 days upon receipt of an appeal to provide in writing the disposition of the appeal or request additional information.
- Applicants have 60 days upon receipt of a 1st appeal disposition to request for a 2nd appeal.
- FEMAs goal is to provide applicants with the fullest reimbursement under the Stafford Act for their PWs.

Key Points...

- Disaster Declaration Date was 9/11/2013.
- The incident period is not over yet.

Key Points...

- FEMAs goal is to complete all project worksheets as soon as possible in order to provide funding for Applicants.
- Contact State OEM & your FEMA PAC for any specific questions.

■ Helpful Websites

- <http://www.fema.gov/public-assistance-local-state-tribal-and-non-profit>
- <http://www.fema.gov/public-assistance-policy-and-guidance>
- http://www.fema.gov/pdf/government/grant/pa/fema323_app_handbk.pdf
- <http://www.fema.gov/9500-series-policy-publications>

This concludes the overview of the Public Assistance Applicant Briefing

- **Please submit an RPA**
- If you don't know your DUNS number, please email it to me.
- Kick-off meetings will be scheduled.