FEMA

FP 306-112-1

FEDERAL INSURANCE AND MITIGATION ADMINISTRATION (FIMA) POLICY

I. **TITLE:** Restrictions on Grant Obligations to State, Tribal, and Local Governments without a Federal Emergency Management Agency (FEMA)-approved Mitigation Plan

II. **DATE OF ISSUANCE: August 19, 2013**

III. **POLICY STATEMENT:** FEMA will not obligate funds unless a State, Tribal, or Local government meets the requirements set forth in accordance with Title 44 Code of Federal Regulations (CFR) Part 201 of having a FEMA-approved Mitigation Plan relative to the following FEMA programs (see details in Section IX Policy Details):

A. Public Assistance – Categories C-G
B. Fire Management Assistance Grants
C. Hazard Mitigation Grant Program
D. Pre-Disaster Mitigation
E. Flood Mitigation Assistance

This is not a permanent stop to and loss of funding, but rather a temporary hold on awards until the mitigation plan is approved by FEMA. This policy establishes the term "receives" as synonymous with "obligation."

IV. **PURPOSE:** The purpose of this policy is to describe implications of not having a FEMA-approved Mitigation Plan relative to the FEMA programs listed above as well as key information for FEMA Regional Administrators to continue to communicate to State, Tribal, and Local governments.

V. **SCOPE AND EXTERNAL AUDIENCE:** This policy shall apply to State, Tribal, and Local governments interested in seeking financial assistance through the FEMA programs listed above.

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VI. **AUTHORITY:** The restrictions on obligations to State, Indian Tribal, and Local Governments without a FEMA-approved Mitigation Plan is governed by the following authorities, except where otherwise prohibited by law:

A. Robert T. Stafford Disaster Relief and Emergency Assistance Act, Public Law 93–288, as amended, 42 U.S.C. 5121 et seq.

B. National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4001 et. seq.

C. 44 CFR, Emergency Management and Assistance, which includes Part 79, Flood Mitigation Grants

D. 44 CFR, Emergency Management and Assistance, which includes Part 201, Mitigation Planning

E. 44 CFR, Emergency Management and Assistance, which includes Part 204, Fire Management Assistance Grant Program

F. 44 CFR, Emergency Management and Assistance, which includes Part 206, Federal Disaster Assistance

VII. **OBJECTIVES:** This policy will supersede Mitigation Planning Memoranda #8, 8A, 10, and 10A.

VIII. **DEFINITIONS, ABBREVIATIONS, AND FORMATTING:**

A. **Grantee / Subgrantee** are defined in accordance with 44 CFR Section 201.2.

B. **State (including Territories), Tribal, and Local government** are defined in accordance with 44 CFR Section 201.2.

C. **Applicant** is defined as State or Tribal government applying for FEMA for financial assistance. Upon award, the Applicant is referred to as the *Grantee*.

D. **Subapplicant** is defined as State-level, Indian Tribal, or Local government submitting a subapplication for FEMA assistance to the Applicant. Upon award, the subapplicant is referred to as the *subgrantee*.

E. **FEMA-approved Mitigation Plan** is defined as a plan that has been adopted by the jurisdiction and approved by FEMA in accordance with 44 CFR Part 201.

F. **Mitigation Plan Lapse** means the period beginning on the day after the end of the FEMA-approved Mitigation Plan approval period and ending on the day before the updated plan is approved by FEMA.

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IX. **POLICY DETAILS:** In accordance with 44 CFR Part 201, FEMA regulations require that State, Tribal, and Local Mitigation plans are updated and resubmitted to FEMA for approval. If the plan is not updated by the date indicated on the FEMA approval letter, the plan is considered lapsed.

State (including territories and the District of Columbia) and Tribal Governments acting as Grantees must have a FEMA-approved mitigation plan in order to receive the following assistance:

A. Public Assistance – Categories C-G
B. Fire Management Assistance Grants
C. Hazard Mitigation Grant Program

State and Tribal Governments acting as Grantees must have a FEMA-approved mitigation plan in order to apply for and receive the following assistance:

A. Pre-Disaster Mitigation
B. Flood Mitigation Assistance

Post-disaster grant assistance will not be authorized under any new declaration during the time that the State or Tribal Mitigation Plan is lapsed. The State or Tribe acting as a Grantee must also have a FEMA-approved plan at the time it receives the grant. That is, FEMA will not obligate funds for the programs listed above while the State or Tribal Mitigation Plan is lapsed.

Local and Tribal Governments acting as Subgrantees must have a FEMA-approved mitigation plan in order to receive project grants for the Hazard Mitigation Grant Program or to apply for and receive project grants for the following assistance:

A. Pre-Disaster Mitigation
B. Flood Mitigation Assistance

FEMA will not obligate funds under the programs listed above for projects located in local or Tribal jurisdictions while the respective Local or Tribal Mitigation Plan is lapsed. Project grants obligated under any of these programs prior to the

expiration of a FEMA-approved mitigation plan are not affected by this policy, and will continue to be administered under the terms of the grant award.

State, Tribal and Local governments may have had FEMA-approved Mitigation Plans when a declaration occurred, or when a non-disaster grant application was submitted. However, this is not sufficient for Grantees to receive funds after the plan has lapsed. The requirement is that the State, Tribal and/or Local government must have a FEMA-approved Mitigation Plan at the time it receives the grant, also described here as FEMA obligation of funds. This is not a permanent stop to and loss of funding, but rather a temporary hold on awards until the mitigation plan is approved by FEMA.

X. ROLES & RESPONSIBILITIES:

A. Regional Administrators will be responsible for the following:

1) Ensure FEMA staff is aware of these requirements, as appropriate.
2) Ensure FEMA staff provide, at a minimum, 6 months prior to each State or Tribal Mitigation Plan expiration date, the appropriate State or Tribal government official with written information, including but not limited to:
   a) State or Tribal Mitigation Plan expiration date;
   b) Consequences of not having a FEMA approved mitigation plan with respect to eligibility for the FEMA assistance programs listed above; and
   c) Availability of mitigation planning technical assistance.
3) Ensure FEMA staff provide, at a minimum, every 6 months, the appropriate State government official with written information, including but not limited to:
   a) Local Mitigation Plan expiration dates;
   b) Consequences of not having a FEMA-approved local mitigation plan with respect to eligibility for the FEMA assistance programs listed above; and
   c) Availability of mitigation planning technical assistance.

B. State government officials are encouraged to communicate with the appropriate Local and Tribal government official 12 months prior to the Mitigation Plan expiration date to share information, as stated above.

XI. **MONITORING AND EVALUATION:** FEMA staff will work with the Grantee (State or Tribal government) to ensure the requirements stated herein are met in accordance with 44 CFR Part 201.

XII. **RESPONSIBLE OFFICE:** FIMA, Risk Analysis Division, Assessment and Planning Branch, Mitigation Planning Program

XIII. **SUPERSESSION:** This policy supersedes the following Mitigation Planning Memoranda:

A. #8 (November 14, 2007) "Obligation of Grants to States, Territories and Indian Tribal Governments with Expired Hazard Mitigation Plans"
   1. #8A (Attachment) (November 14, 2007) "Sample Language to include in Letter to Governor about Expiring State Plans"

B. #10 (February 20, 2008) "Obligation of Grants to Local and Indian Tribal Governments with Expired Hazard Mitigation Plans"
   1. #10A (Attachments 1 and 2) (February 20, 2008) "Sample Language for Letter to State Emergency Management Director from FEMA Region Regarding Expiring Local and Tribal Mitigation Plans"

XIV. **REVIEW DATE:** This policy will be reviewed 3 years from the date of issuance in accordance with Directive 112-12.

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