

State of Texas Administrative Plan for Public Assistance

Texas Division of Emergency Management

2022

Approving Authority

Title: State of Texas Administrative Plan for Public Assistance and Fire Management Assistance Grant Program Annex

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TDEM Chief



07/11/2022

Signature and Date

Revisions:

- Rev. 1:* 2 CFR 200 references corrected throughout the document.
- Rev. 2:* Changed “Regional Unit Chief” to “Regional Section Chief” (page 15)
- Rev. 3:* Changed “Quality Assurance Unit Chief” to “Quality Assurance Section Chief” (page 15)
- Rev. 4:* Changed “Program Support Technician” to “Administrative Associate” (page 16)
- Rev. 5:* Added information regarding small project process (page 24)
- Rev. 6:* Updated Normal advances of funds to include advances for Expedited Projects (page 28)
- Rev. 7:* Changed “USAS” to “FAMIS” in reference to the accounting system (page 29)
- Rev. 8:* Updated record retention language (page 31)
- Rev. 9:* Updated time extension requirements and process (page 35)
- Rev. 10:* Updated small project language (page 37)
- Rev. 11:* Updated appeals process (page 38)
- Rev. 12:* Updated record retention language (page 40)
- Rev. 13:* Removed language related to Sandy Recovery Improvement Act (SRIA) of 2013

The State Administrative Plan, prepared by the Texas Division of Emergency Management provides citations of the laws, regulations and policies that state procedures must comply with in order to meet Federal program and grant administrative requirements.

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Purpose, Audience and Authority

This section defines the purpose, intended audience and authorities of the State Administrative Plan.

Purpose

The purpose of this plan is to identify the roles and responsibilities of the state of Texas in administering the Public Assistance (PA) and Fire Management Assistance Grant (FMAG) programs, outline staffing requirements and the policies and procedures to be used.

The state of Texas assures the Federal Emergency Management Agency (FEMA) that it shall comply with all applicable federal statutes and regulations in effect with respect to the periods for which it receives grant funding, including those listed under state and federal authorities below. The state of Texas acknowledges that funding under the FEMA PA program and FMAG programs are conditional upon the state's compliance with all terms and conditions of the FEMA-State Agreement and all applicable federal laws, rules and regulations.

This plan is effective for all disasters declared on or after January 1, 2021. In accordance with 44 CFR § 206.207 this plan will be updated or amended as needed following each major disaster declaration. Any revised plan will be submitted to FEMA for approval of the regional administrator prior to the award of PA program funding.

Audience

- Federal Emergency Management Agency (FEMA)
- Texas Division of Emergency Management (TDEM)

State Authorities

- Texas Disaster Act of 1975, as amended
- Executive Orders of the Governor
- State of Texas Emergency Management Plan and Standard Operating Procedures (SOP) for Fire Suppression Operations, Addendum L, to the State Operations Center (SOC) SOP
- Uniform Grant and Contract Management Act (Texas Government Code, Chapter 783)
- State of Texas Hazard Mitigation Plan

Federal Authorities

- Public Law 93-288, as amended (Stafford Act)
- Disaster Mitigation Act of 2000
- FEMA Regulations, 44 CFR Parts 204, Fire Management Assistance Grant Program, - 206 Federal Disaster Assistance
- Executive Order 11988, Floodplain Management
- Executive Order 11990, Protection of Wetlands
- Executive Order 12372, Intergovernmental Review of Programs and Activities
- Executive Order 12549, Debarment and Suspension
- Executive Order 12612, Federalism
- Executive Order 12699, Seismic Design
- Executive Order 12898, Environmental Justice
- Coastal Barrier Resources Act, Public Law 97-348
- Single Audit Act, Public Law 98-502
- 2 CFR Part 200 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards
- Sandy Recovery Improvement Act publications
- National Historic Preservation Act, 16 U.S.C. § 470,
- Endangered Species Act References, 16 U.S.C. § 1531,
- Solid Waste Disposal Act of 1965, Section 6002 as amended by the Resource Conservation and Recovery Act
- FEMA program publications, guidance and policies
- FEMA-State Agreements

Acronyms and Definitions

This section provides definitions of terms and acronyms used in this document.

Advance Payment: A payment that a federal awarding agency or Pass Thru Entity makes by any appropriate payment mechanism, including a predetermined payment schedule, before the subrecipient disburses the funds for program purposes.

Applicant: A state, local, Indian tribal government, other legal entity, or certain private non-profit organizations that receive a subgrant award and which is accountable to the grantee for the use of the funds provided. The applicant, once awarded is also referred to as the subgrantee or subrecipient.

Alternate Project: A subrecipient may determine that the public welfare would not be best served by restoring a damaged facility or its function to the pre-disaster design. In this event, the subrecipient may use the PA funding for permanent restoration on that facility for other purposes. FEMA approval must be obtained prior to start of construction.

Assistance Listing Number: Formerly known as Catalog of Federal Domestic Assistance (CFDA) - the number assigned to a federal program.

Audit Finding: Deficiencies noted by an auditor as required by 2 CFR § 200.516 Audit findings, paragraph (a) to report in the schedule of findings and questioned costs.

Auditee: Any non-federal entity that expends federal awards funds requiring an audit in accordance with 2 CFR 200, Subpart F—Audit Requirements.

Auditor: A public accountant or a federal, state, local government, or Indian tribe audit organization, which meets the general standards specified for external auditors in Generally Accepted Government Auditing Standards (GAGAS). The term auditor does not include internal auditors of nonprofit organizations.

Closeout: The process in which the federal awarding agency or pass-through entity determines that all applicable administrative actions and all required work of the Federal award have been completed and takes actions as described in 2 CFR § 200.344 Closeout.

Corrective Action: Action taken by the auditee that:

- Corrects identified deficiencies;
- Produces recommended improvements; or
- Demonstrates that audit findings are either invalid or do not warrant auditee action.

Cost Sharing or Matching: The portion of project costs not paid by federal funds (unless otherwise authorized by federal statute). See also 2 CFR §200.306 Cost sharing or matching.

Critical Services: Private non-profit critical services include power, water (including water provided by an irrigation organization or facility), sewer, wastewater treatment, educational, communications, emergency medical care and fire/rescue service.

Disallowed Costs: Charges to a federal award that the federal awarding agency or pass-through entity determines to be unallowable, in accordance with the applicable federal statutes, regulations, or the terms and conditions of the federal award.

Disaster District Committee (DDC): A geographically-based emergency operation committee chaired by local TDEM commanding officers. The committee consists of representatives from geographically-based state agencies, boards, commissions and organized volunteer groups. The purpose is to coordinate response activities and assets, and to support statewide disaster events.

Disaster Specific Administrative Plan (DSAP): The DSAP describes additional specific details for managing a specific disaster by the Texas Division of Emergency Management, in accordance with 44 CFR 206.207(b)(3).

Emergency Management Mission Integrated Environment (EMMIE): Next-generation computer information system utilized by FEMA in management of PA grants. This system is web-based and will allow Subrecipients to access its grant information via the World Wide Web.

Emergency Work: Work which must be done before, during, and immediately after a disaster event to save lives and to protect improved property and public health and safety or to avert or lessen the threat of a major disaster. Under the PA Program, Category A (Debris Removal), and Category B (Emergency Protective Measures) are referred to as Emergency Work.

Expedited Funding: Expedited payments can be made to subrecipients who participated in the Preliminary Damage Assessment (PDA) and who have applied for PA. FEMA will obligate 50 percent of the federal share of the estimated cost of work under Category A and Category B as estimated during the PDA.

Federal Award Identification Number (FAIN): A unique Federal Award Identification Number.

Federal Coordinating Officer (FCO): The person appointed by the president of the United States to coordinate federal assistance in an emergency or disaster declaration.

Federal Emergency Management Agency (FEMA): The federal agency responsible for coordinating federal disaster recovery efforts. The term used in this plan when referring to the Regional Administrator, or the Disaster Recovery Director, of FEMA Region VI.

Federal Funding Accountability and Transparency Act (FFATA): Federal Subaward Reporting System (FSRS) is the reporting tool federal prime awardees (i.e. prime contractors and prime grants recipients) use to capture and report sub-award and executive compensation data regarding its first-tier sub-awards to meet the FFATA reporting requirements.

FEMA-State Agreement: A formal legal document between FEMA and the affected state stating the understandings, commitments, terms and conditions for assistance resulting from a federal disaster or emergency declared by the president. The FEMA Regional Administrator and the governor each sign the document.

Federal Information Processing Standard (FIPS): A unique identification number assigned to every subrecipient of federal funds. It is used, both by FEMA and TDEM in identifying specific applicants.

Fixed Amount Awards: A grant agreement under which the federal awarding agency or pass-through entity provides a specific level of support without regards to actual costs incurred under the federal award. This type of federal award reduces some of the administrative burden and record-keeping requirements for both the non-federal entity and federal awarding agency or pass-through entity. Accountability is based primarily on performance and results as described in 2 CFR § 200.1. See 2 CFR § 200.201 Use of grant agreements (including fixed amount awards), cooperative agreements, and contracts, paragraph (b) and 2 CFR § 200.333 fixed amount subawards.

Governor's Authorized Representative (GAR): Empowered to execute on behalf of the state all necessary documents for disaster assistance, including approval of subgrants and certification of claims for PA. Alternative GARs (Alt-GAR) may be designated as well and are similarly empowered.

GAAP: Generally Accepted Accounting Principles as specified in accounting standards issued by the Government Accounting Standards Board (GASB) and the Financial Accounting Standards Board (FASB).

GAGAS: Generally Accepted Government Auditing Standards, also referred to as the Yellow Book. Auditing standards issued by the Comptroller General of the United States, which are applicable to financial and performance audits.

Grant Management System (GMS): The grant management system that is used by TDEM to manage disaster grants, its associated subgrants and subawards. It is a cloud-based system that will allow TDEM to monitor grants, subrecipients, projects, and all activities related to the subrecipient and its projects. The subrecipients will utilize the system to fully manage its subgrants and subawards by requesting payments project scope changes, time extensions, closeouts and appeals and will have full visibility of its subgrants. FEMA will be able to access GMS as well in order to view project details, transfer files, and to conduct monitoring via desk audits and real time validation of grant activities and transactions

Grants Manager/Portal: FEMA uses the Grants Manager and Grants Portal tool, which is a web based, project tracking system used by FEMA, the state, and applicants. The tool captures Public Assistance program projects in formulation for a seamless transition to project obligation. Applicants will be required to submit any Requests for Public Assistance through the Portal.

Grant Agreement: A legal instrument of financial assistance between a federal awarding agency or pass-through entity and a non-federal entity that is consistent with 31 U.S.C. 6302, 6304; is used to enter into a relationship the principal purpose of which is to transfer anything of value from the federal awarding agency or pass-through entity to the non-Federal entity to carry out a public purpose authorized by a law of the United States (see 31 U.S.C. 6101(3)); and not to acquire property or services for the federal awarding agency or pass-through entity's direct benefit or use; is distinguished from a cooperative agreement in that it does not provide for substantial involvement between the federal awarding agency or pass-through entity and the non-federal entity in carrying out the activity contemplated by the federal award. Does not include an agreement that provides only:

- Direct United States Government cash assistance to an individual;
- A subsidy;

- A loan;
- A loan guarantee; or
- Insurance

Grantee: The government entity to which a grant is awarded and which is accountable for use of the funds provided. In the state of Texas, the Texas Division of Emergency Management (TDEM) serves as the grantee. The grantee is also referred to as the recipient, and the Pass Thru Entity, and is considered a non-federal entity.

Hazard Mitigation (Section 406 Mitigation): Mitigation measures that must be directly part of the reconstructed work on a facility, or will protect or benefit the repaired portion of the facility. They are different from mitigation measures that are considered for eligibility under the Hazard Mitigation Grant Program (HMGP) of Section 404 of the Stafford Act. In the HMGP program, measures are proposed that may involve facilities other than those damaged by the disaster, new facilities or even non-structural measures such as development of floodplain management regulations.

Immediate Needs Funding (INF): Funds that can be made available for work that must be performed and paid for in the first 60 days after a disaster declaration. INF is capped at 50 percent of the PDA for Categories A and B. The state will work with expedited payments rather than INF whenever possible.

Improper payment: Any payment made that should not have been made or that was made in an incorrect amount (including overpayments and underpayments) under statutory, contractual, administrative, or other legally applicable requirements; any payment to an ineligible party, any payment for an ineligible good or service, any duplicate payment, any payment for a good or service not received (except for such payments where authorized by law), any payment that does not account for credit for applicable discounts, and any payment where insufficient or lack of documentation prevents a reviewer from discerning whether a payment was properly made. (Improper Payment Elimination and Improvement Recovery Act - IPERIA)

Improved Projects: Subrecipients 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 and function. Federal funding will be limited to the approved estimate of eligible cost. (44 CFR 206.203(d)(1). FEMA approval must be obtained prior to the start of construction.

Joint Field Office (JFO): A temporary facility established following a presidentially declared disaster to serve as the field headquarters for FEMA and TDEM recovery personnel and as the focal point for disaster operation, direction, coordination and information.

Large Projects: Approved projects estimated to cost equal to or more than the large project threshold amount as set by FEMA each year. The large project threshold is an amount of approved project estimated costs adjusted annually to reflect changes in the Consumer Price Index for all Urban Consumers. The large project threshold amount applicable to any project is that amount in effect on the declaration date of the disaster, regardless of when project approval is made or when the work is performed. The large project threshold will be identified in the Disaster Specific Administrative Plan (DSAP) for each respective disaster.

Management Decision: The evaluation by the federal awarding agency or pass-through entity of the audit findings and corrective action plan and the issuance of a written decision to the auditee as to what corrective action is necessary.

Non-Federal Entity: A state, local government, Indian tribe, institution of higher education (IHE), or nonprofit organization that carries out a federal award as a recipient or subrecipient.

Pass-Through Entity: A non-federal entity that provides a subgrant to a subrecipient to carry out part of a federal program. Also referred to as the recipient.

Performance Goal: A targeted level of performance expressed as a tangible, measurable objective, against which actual achievement can be compared, including a goal expressed as a quantitative standard, value, or rate.

Period of Performance (POP): The time during which the non-federal entity may incur new obligations to carry out the work authorized under the Federal award. The federal awarding agency or pass-through entity must include start and end dates of the period of performance in the federal award (see 2 CFR § 200.211 Information contained in a federal award paragraph (b)(5) and 2 CFR § 200.332 Requirements for pass-through entities, paragraph (a)(1)(v).

Permanent Work: Restorative work performed on damaged facilities through repairs or replacement, to pre-disaster design and current applicable standards. FEMA PA Categories C through G are referred to as permanent work. Under the PA Program, Category C (Roads and Bridges), Category D (Water Control Facilities), Category E (Buildings and Equipment, Category F (Utilities), and Category G (Parks, Recreational Facilities, and Other Items), are referred to as permanent work.

Program Income: Gross income earned by the non-federal entity that is directly generated by a supported activity or earned as a result of the federal award during the subrecipient period of performance except as provided in 2 CFR § 200.307 paragraph (f). (See 2 CFR § 200.1 Period of performance.) Program income includes but is not limited to income from fees for services performed, the use or rental of real or personal property acquired under federal awards, the sale of commodities or items fabricated under a federal award, license fees and royalties on patents and copyrights, and principal and interest on loans made with federal award funds. Interest earned on advances of federal funds is not program income. Except as otherwise provided in federal statutes, regulations, or the terms and conditions of the federal award, program income does not include rebates, credits, discounts, and interest earned on any of them. See also 2 CFR § 200.407 Prior written approval (prior approval). See also 35 U.S.C. 200-212 “Disposition of Rights in Educational Awards” applies to inventions made under federal awards.

Project Cost: Total allowable costs incurred under a federal award and all required cost sharing and voluntary committed cost sharing, including third-party contributions.

Project Worksheet (PW): A form used to record the damage, eligible scope of work, quantitative cost estimate and completion deadlines. It may also be referred to as a subaward.

Questioned Cost/ Unsubstantiated Cost: Cost that is questioned by the auditor because of an audit finding: (a) Which resulted from a violation or possible violation of a statute, regulation, or the terms and conditions of a federal award, including for funds used to match federal funds; (b) Where the costs, at the time of the audit, are not supported by adequate documentation; or (c) Where the costs incurred appear unreasonable and do not reflect the actions a prudent person would take in the circumstances.

Request for Information (RFI): A progressive informal and formal process by which to obtain additional information from subrecipients in order to properly monitor projects and render decisions from subrecipient and FEMA requests

Request for Public Assistance (RPA): The form that a potential subrecipient (applicant) uses to apply for assistance.

Simplified Application: A FEMA-developed, simplified online form applicants may complete to explain work activities, answer basic eligibility questions, provide limited supporting documentation and provide a cost estimate for some disasters.

Small Projects: Approved projects estimated to cost less than the large project threshold amount. The small project threshold will be identified in the Disaster Specific Administrative Plan (DSAP) for each respective disaster.

Special Considerations: Issues that may involve insurance, floodplain management, hazard mitigation, historic preservation and/or environmental reviews as they relate to PA program funding.

Strategic Funds Management: Strategic Funds Management is FEMA's process for obligating PA funding based on the applicant's schedule to execute the work. If a Permanent Work project is greater than \$1 million and the applicant does not need funds for more than 180 days from the time the PW is ready for obligation, FEMA obligates funds based on the project completion schedule.

Subaward: Subawards are the individual project worksheets (PW) associated with a specific subrecipient and its subgrant agreement with TDEM. Any additional PWs, and modifications to existing PWs are considered amendments to the subgrant agreement and will require notification only.

Subgrant: A portion of a grant or award that is distributed to a third party (subrecipient) by the recipient (pass-through entity) of the original award to conduct project work in compliance with the grantee's terms and conditions. It does not include payments to a contractor or payments to an individual that is a beneficiary of a federal program. A subgrant may be provided through any form of legal agreement, including an agreement that the pass-through entity considers a contract.

Subrecipient: A state or local government or other legal entity which receives an award (subgrant) and which is accountable to the grantee for the use of funds provided. The subrecipient is responsible for the non-federal portion of its PA grant.

Other definitions may be found in 2 CFR § 200.1.

Organization and Assignment of Responsibilities

This section provides an overview of TDEM responsibilities and assignments.

Organization

The governor of the state of Texas has designated TDEM as the state office responsible for managing and administering the PA Program per 44 CFR 206.207. These responsibilities include, but are not limited to:

- Monitors and assures state compliance with the FEMA-State Agreement
- Submits the Application for Federal Assistance (SF-424).
- Complies with federal and state program and grant administrative requirements.
- Defines the chain of command and specific responsibilities for the AltGAR(s) and SCO(s) in each disaster declared establishing the direction and control of the state operations including operations at the JFO.
- Conducts and participates with FEMA in conducting damage surveys to serve as a basis for obligations of funds to subrecipients.
- Notifies potential subrecipients of the availability of assistance.
- Conducts Applicant Briefings.
- Participates in the Recovery Scoping Meetings or the regulatory equivalent
- Assigns state staffing to work with FEMA Program Delivery Managers (PDMGs) to assist in the development of the subrecipient's applications and enforcing Special Considerations requirements.
- Support an applicant in the development and submission of their simplified application for public assistance projects.
- Assists FEMA in determining work and applicant eligibility.
- Requests Immediate Needs and Expedited Funding on behalf of the subrecipients.
- Assists the subrecipient in identifying areas for hazard mitigation.
- Processes requests for, time extensions, improved projects, alternate projects, advances, and reimbursements.
- Forwards requests with the state's recommendation to FEMA on appeals, scope of work/cost changes, alternate project requests, and improved project requests (where appropriate and if required).
- Complies with administrative requirements of 2 CFR Parts 200, 44 CFR Parts 206 and 207 and Audit Requirements of 2 CFR Parts 200.
- Secures insurance information from subrecipients as required by Stafford Act and 2 CFR § 200.310 Insurance Coverage and further defined by FP 206-086-1 Public Assistance Policy on Insurance.
- Reviews and certifies project completion information.
- Conducts quarterly reviews, site inspections and grant compliance reviews, as required ensuring program compliance.

- Determines budget and staffing requirements necessary for proper program management.

Assignment of Responsibilities

Governor's Authorized Representative (GAR)

The person designated by the governor to execute all necessary documents for disaster assistance programs on behalf of the state and local grant recipients. The GAR is responsible for ensuring state compliance with the FEMA-State Agreement to include evaluating and monitoring compliance with statutes, regulations and terms and conditions of Federal awards including the provisions of the 2 CFR parts 25 and part 170 and the Federal Funding Accountability and Transparency Act (FFATA). The GAR may also be designated as the State Coordinating Officer. Alternate GARs are appointed as necessary to fulfill the duties of the GAR in his place.

Governor's Authorized Representatives:

Chief of TDEM

Alternate Governor's Authorized Representatives:

Deputy Chief – Recovery & Mitigation

Deputy Chief – Response

Division Chief for Operations

State Coordinating Officer

The person designated by the governor to coordinate state and local disaster assistance efforts with the federal government is the State Coordinating Officer (SCO). Alternate or Deputy State Coordinating Officers are appointed as necessary to fulfill the duties of the SCO in his place.

The State Coordinating Officer (SCO):

Chief of TDEM

Alternative State Coordinating Officer:

Deputy Chief – Recovery & Mitigation

Administration

This section provides an overview of TDEM personnel

Recovery and Operations Personnel per 44 CFR 206.207 (b)(ii)

Staffing is made up of a combination of state-funded full-time staff, federally funded full-time staff, federally funded contractors (Affiliates), and federally-funded temporary staff. Each of these will occupy the roles below. The mix or makeup of the staff will differ based on the size and needs of a particular disaster.

Chief of TDEM

Is the GAR and SCO and sets all guidelines and policy for the program.

Deputy Chief

Is the Alternate GAR and Alternate SCO and assists the chief in developing guidelines and policy for the program and directs implementation of these with personnel.

Division Chief for Recovery

In charge of setting policy, procedure and strategic goals to ensure the proper management of declared disasters and the timely obligation and closeout of public assistance projects.

Section Chief for Public Assistance

Supervises staff and manages daily operations, including any joint FEMA/State operations; responsible for interfacing with FEMA and subrecipients on issues related to complex or sensitive project approvals, appeals, possible violation, etc.

Regional Section Chief

Supervises staff and ensures compliance with all laws, regulations and any guidelines, policies and procedures set by management; interfaces with FEMA and subrecipients on issues related to project approvals, appeals, closeouts, routine reports, etc.

Finance

Reviews and verifies reimbursement requests and related expenses to be within the scope of work, are fully documented, eligible, and appropriate for reimbursement.

Quality Assurance Section Chief

Acts as liaison between FEMA and TDEM to establish new processes and improve existing ones, monitor program activity for compliance of all applicable rules and policies. Analyzes new rules and policies for program impact on the program.

Grant Processing Coordinator (GP)

Oversees the performance and compliance of the contracted affiliates, tracks budgets, and authorizes and approves invoices.

Recovery Coordinator, Specialist, and Supervisor

Coordinate Public Assistance for individual districts within the TDEM Regions. Program liaison to the applicants and coordinates with assigned contacts to carry out all recipient activities in monitoring subrecipients.

Support Affiliates

Acts as project officers for routine projects and performs the following related duties: processes submitted applications, monitors grant activities; conducts reviews of subrecipient's compliance with all program rules and requirements;; processes requests for payment, appeals, project closeout. The position is typically held by an affiliate employee.

Administrative Associate

Performs the following routine duties: updates data base, processes incoming/outgoing mail from subrecipients and FEMA, forwards mail to assigned Recovery Coordinator, copies, scans, processes routine office related procurements, makes travel arrangements for staff, and other administrative or clerical duties as assigned.

Quality Assurance Staff

Reviews and approves all requests for time extensions, scope changes, and closeouts prior to management signature. Other reviews will be conducted as well. Responsible for ensuring compliance of all program subrecipients with requirement of 2 CFR Subpart F (Single Audit); performing internal program reviews and controls as assigned to assist in ensuring program compliance with all federal requirements.

Regional Assistant Chief

Coordinates the District Coordinators and assists the Disaster District Committee (DDC) in monitoring resources and assets for the region.

District Coordinator (DC)

Represents the DDC, coordinates local and state response support requests, and acts as a liaison for TDEM Recovery with local subrecipients.

Regional Disaster Finance Coordinator (RDFC)

Provides advance and just-in-time financial and grant training to subrecipients.

Grants Management System Unit

Responsible for the implementation and support of TDEM's Grant Management System (GMS). Ensures the integrity of data imports from Electronic Data Warehouse.

Education and Policy/Plans Section

Responsible for developing staff training materials, policy and guide manuals to support the program, and to facilitate training opportunities for both staff and subrecipients.

Agency Finance Staff

Process payment requests submitted by TDEM including making drawdowns of federal funds from the SmartLink system into TDEM accounts; prepare and submit financial and closeout 425 reports using the agency accounting system reports.

Other Support Personnel

Assist in program activities as needed in supporting functions such as: procurement, business process reviews, internal audit, information technology, asset inventory, staff training, etc.

Staff Determination and Budgeting per 44 CFR 206.207(b)(1)(iii)(J)

Since staffing requirements vary depending on the magnitude, type, and extent of the disaster, the initial cost for staffing will be incurred by TDEM. A claim for reimbursement will be submitted to FEMA for direct and indirect administration costs in accordance with the management and administrative cost provisions of 2 CFR 200 (413),(414), Appendix VII to Part 200, and the Public Assistance Management Cost Interim Policy.

All staff as outlined in the personnel descriptions may be utilized to respond to an incident and implement the public assistance program in the state of Texas. Budgeting determinations are made based on the impacted areas and resources required to assist eligible subrecipients.

An organizational chart can be found in the Appendix

Direction and Control

This section provides detailed information on TDEM PA activities.

Pre-Declaration Activities

Preliminary Damage Assessment

As per the state's Basic Plan, TDEM will conduct Preliminary Damage Assessments (PDA). If the state conducts the PDA alone and findings support a FEMA request for assistance, the state will contact FEMA and request a joint FEMA-State PDA.

Preparation

TDEM personnel will prepare for the arrival of FEMA PDA personnel by identifying areas of the state where damage is most significant. TDEM will work with county officials in the affected counties to identify damages. TDEM and the county will be responsible for coordinating damage assessments within the other cities in the county. FEMA staff will not make arrangements directly with locals.

Local Jurisdictions

Local jurisdictions will submit Disaster Summary Outlines (DSOs) to TDEM, which identify affected areas. They will provide personnel to participate and act as subject matter experts on their areas during PDAs. They will work with TDEM to provide maps, transportation and anything else available to facilitate with the PDA.

Remote Assessments

PDAs may be conducted remotely due to extenuating circumstances caused by the disaster or other events. When remote PDAs are required, TDEM will work with local jurisdictions and FEMA to obtain and review data and documentation to support damage estimates.

Post Declaration Activities

Grant Approval

TDEM will submit to FEMA an "Application for Federal Assistance" (SF 424) and an "Assurances for Construction Programs" (SF 20-16B) or "Assurances for Non-Construction" (SF 20-16A) in order to receive federal funding. This will be submitted through FEMA's Grants Manager/Portal system. Approved projects will be the basis for issuing subgrants to eligible subrecipients in accordance with the cost-sharing provisions established by FEMA.

Appeals related to types of assistance or designated areas will be submitted by the Governor or GAR, as appropriate, within 30 days of the incident end date or declaration, whichever is later, accompanied by required documentation as outlined in 44 CFR 206.40

Requests for additional designations will be submitted by the Governor or GAR, as appropriate, within 30 days of the incident end date or declaration, whichever is later, with required documentation as outlined in 44 CFR 206.40

Should an appeal or request related to the declaration require more than 30 days to prepare, the Governor or GAR, as appropriate, will request extension and provide justification for such an

extension within 30 days of the incident end date or declaration, whichever is later.

Notifying Potential Subrecipients

TDEM staff will work with TDEM District Coordinator(s), TDEM Assistant Chief(s), local public information officer, councils of government, county judges, city mayors, chief financial officers, county/city auditors and county/city emergency management coordinators (EMCs) to notify potential subrecipients of the assistance that is available and the time and date of the applicant briefing which will be held in its area. TDEM will also work with the above-mentioned officials to notify any other affected parties/agencies in its jurisdiction, including any who responded to the event, or other potential subrecipients in its areas. The procedures to accomplish this task are as follows:

- Per 2 CFR § 200.203, 200.204 and Appendix I for Part 200 (A) (B) (C1) (C2) (C3), the federal awarding agency will announce the specific funding opportunities for the grants.
- Once the grant has been announced, TDEM will send an announcement to Designated Points of Contact (POC), and EMCs notifying them of an Applicant Briefing. This consists of a letter announcing the Applicant Briefing date, time and location as well as discussions about applicants that are potentially eligible to receive assistance.
- Applicant Briefing – As soon as possible following the Presidential declaration, TDEM will conduct one applicant briefing, or the regulatory equivalent, per county for all potential applicants (i.e., state, territorial, tribal, and local governmental entities and private nonprofits (PNPs)). TDEM is responsible for notifying potential applicants of the date, time, and location of the Applicant Briefing. Applicant briefing may also be held virtually. During these briefings, TDEM will provide high level information regarding the PA Program such as:
 - Application Procedures
 - Project Funding
 - Hazard Mitigation
 - Administrative Requirements
 - Procurement Requirements
 - Environmental and historic preservation (EHP) compliance requirements
 - General eligibility requirements
 - Recordkeeping
- Request for Public Assistance (RPA) – The jurisdiction is required to submit an RPA within 30 days from the date the jurisdiction becomes eligible for PA. RPAs that are submitted after this 30-day period will be reviewed on a case-by-case basis and, if warranted, will be forwarded to FEMA for consideration. If necessary, TDEM will request that the deadline for filing RPAs be extended. The RPA will be entered directly into FEMA's Grants Portal by the jurisdiction.
- Designation of Subrecipient's Agent (DSA) – A subrecipient's chief certifying official will be required to designate an agent in writing who will be the subrecipient's point of contact for all matters pertaining to its application for federal assistance. If no agent is appointed, the chief (elected) official of the eligible organization will be designated as the subrecipient's agent. This person should be familiar with damages and information and the requirements of the Grant Terms and Conditions with Exhibits. It is the responsibility of the designated agent to ensure all subrecipient staff and contractors

are aware of and comply with all requirements related to the subgrant.

- In the event that a subrecipient hires a consultant to assist them with managing its PA grants, the subrecipient's chief (elected) official will be required to list the individual(s) on the DSA as an additional contact, and their employer should be listed in the Organization/Employer field. TDEM will direct all correspondence to the subrecipient but will cc: the consultant on all email exchanges. The subrecipient will be responsible for sharing written communications (grant packages/award notices) with the consultant. The subrecipient will remain the primary point of contact and must be included in all decision-making activities.

Determining Subrecipient Eligibility

TDEM will assist FEMA in screening all potential subrecipients for eligibility under the PA Grant Program. TDEM and the subrecipient will retain the responsibility of verifying the debarred/excluded party lists per 2 CFR § 200.214. Eligible subrecipients under the disaster program are:

- State agencies and authorities, local governments and governmental entities. Special districts may need to provide a copy of the legislation that establishes its district.
- Private Non-Profit (PNP) organizations that have an IRS tax exemption letter and/or a state PNP certification (i.e. articles/certificate of Incorporation). Eligible PNP organizations must own or operate educational, utility, irrigation, emergency, medical, custodial care, or essential governmental service facilities. Critical service PNPs are defined as those PNPs that provide power, water, sewer and wastewater treatment, educational, communications, emergency medical care and fire protection. Non-critical service facilities are defined as houses of worship, museums, zoos, community centers, libraries, homeless shelters, senior citizen centers, rehabilitation facilities, shelter workshops, and other facilities which provide a health and safety service of a governmental nature. All such facilities must be open to the general public.
- Conditions for providing assistance for the PNP facilities when Small Business Administration (SBA) disaster loan assistance is available:
 - Eligible PNP operators of critical service facilities will apply to the PA program for both emergency work and permanent work.
 - Eligible PNP operators of non-critical service facilities must apply to the SBA and have been determined ineligible for a loan or obtained the maximum SBA loan for the facility and still have unmet disaster related costs.
 - All Eligible PNPs may apply to the PA program for emergency work regardless of whether or not they operate critical service facilities.
 - Indian tribes or authorized tribal organizations may choose to file directly to the Federal government as a grantee or apply through the state as a subrecipient.

All personnel carrying out major disaster or emergency assistance functions shall perform the work in an equitable and impartial manner, without discrimination, as prescribed in 44 CFR 206.11

Recovery Scoping Meeting

Meeting scheduled by FEMA following the Applicant Briefing in order for FEMA and the state to provide the subrecipient with in-depth information required to meet specific requirements of the PA program. It is during this meeting that the subrecipient is advised of the records that must be provided, cost-estimating procedures will be explained, special considerations identified, and project grouping and the project validation process is explained. The subrecipient is expected to provide a list of specific damages with estimated or actual costs. This meeting is also considered the first substantive meeting and starts the time limitation for reporting additional damage, which is 60 days. In some disasters, the Recovery Scoping Meeting may be replaced with a regulatory equivalent process step.

Project Formulation

State Participation

The state will participate in the PA process by:

- Assigning state subrecipient liaisons with FEMA Program Delivery Managers (PDMGs)
- Supporting the development and submission of simplified project applications.
- Participating in the project validation process.
- Providing state technical support personnel to assist with highly technical projects or resolve disputes.
- Assisting FEMA and the applicant in identifying costs associated with the disaster as provided by 44 CFR 206 of the Stafford Act.
- Assisting FEMA and the applicant in identifying hazard mitigation opportunities as provided by Section 406 of the Stafford Act. Such mitigation measures reduce or eliminate the threat of future damage to a facility damaged during a disaster or will protect or benefit the repaired facility from future damage.
- Supporting local jurisdictions by assigning Grant Coordinators (GCs) to assist subrecipients through the PA process.
- Additional Staff Functions:
 - Process payments to subrecipients
 - Close-out and reconcile subrecipients' accounts
 - Process appeals
 - Provide technical assistance to subrecipients on procedures, eligibility, guidance and deadlines
 - Monitor for program compliance

Subrecipient Participation

The subrecipient will be required to provide the federal/state team with the following information during the project formulation process:

- A list of damages and costs/estimated costs for all projects.
- All insurance documentation on affected properties.
- Hazard mitigation opportunities.
- Source of eligible local match funding as outlined in the awarded project.
- Rates for third-party volunteer services will be consistent with those paid for similar work by the non-federal entity. In those instances in which the required skills are not found in the non-federal entity, rates must be consistent with those paid for similar work in the labor market in which the non-federal entity competes for the kind of services involved. In either case, paid fringe benefits that are reasonable, necessary, allocable, and otherwise allowable may be included in the valuation.
- Values assessed to donated property included in the cost sharing or matching share must not exceed the fair market value of the property at the time of the donation.

- When there is sufficient justification, the federal awarding agency may approve the use of the current fair market value of the donated property, even if it exceeds the fair market value at the time of donation.
- Any shared costs or matching funds and all contributions, including cash and third party in-kind contributions, must be accepted as part of the non-federal entity's cost sharing or matching when such contributions meet all of the following criteria:
 - Are verifiable from the non-federal entity's records;
 - Are not included as contributions for any other federal award;
 - Are necessary and reasonable for accomplishment of project or program objectives;
 - Are allowable under 2 CFR 200 Subpart E— Cost Principles;
 - Are not paid by the federal government under another Federal award, except where the federal statute authorizing a program specifically provides that federal funds made available for such program can be applied to matching or cost sharing requirements of other Federal programs; and
 - Are provided for in the approved budget when required by the federal awarding agency.

Additional Damages

If a subrecipient reports any additional significant damage requiring a new project to be written that was not shown to the inspection team, TDEM will forward this information to FEMA within 60 days of the Recovery Scoping meeting or regulatory equivalent. If warranted, TDEM will request an extension of time in order to report additional damage.

Re-inspections

TDEM will notify FEMA of re-inspections required or requested by a subrecipient.

Public Assistance Administration and Funding Requirements

Subrecipient Subgrant

TDEM will be responsible for the processing and distribution of the subgrant award package and notification of all subawards under the subgrant. TDEM will notify subrecipients when its award package is prepared and ready for signature. The following outlines the information that will be provided to the subrecipients when accepting its subgrant. The subgrant award will consist of the following documents:

- **Grant Terms and Conditions, including:** Assurances – Non-Construction/Construction Programs (SF 424B/424D)
- Certifications for Grant Agreements
- State of Texas Assurances
- Additional Grant Conditions
- Additional Grant Certifications

- Request for Information and Documentation Policy and Guidelines
- Hazard Mitigation Proposal
- Record of Environmental Consideration report, if applicable
- Direct Deposit Authorization
- Designated Subrecipient Agent Form

Applicant must acknowledge acceptance of the subgrant and agree to perform all activities in accordance with all terms, provisions and requirements set forth in the grant terms and conditions with each project obligation (subaward). TDEM will notify the subrecipient of any new subawards. Included in this notification will be:

- Project/ Amendment Award Notification
- FEMA 90-91 Project Worksheet
- Record of Environmental Consideration for the Project
- Hazard Mitigation Proposal (if applicable)

Project Funding Requirements

Insurance Requirements

2 CFR § 200.310 and 44 CFR § 206.250-253 establishes requirements that apply to disaster assistance provided by FEMA. Prior to approval of a FEMA grant for the repair, restoration or replacement of an insurable facility or its contents damaged by a major disaster:

- Eligible costs shall be reduced by the amount of any insurance recovery actually received or anticipated, relating to eligible costs. FEMA will base its determination of eligible costs on whether the insurance settlement is reasonable and proper.
- The full coverage available under the standard flood insurance policy from the National Flood Insurance Program (NFIP) will be subtracted from otherwise eligible costs for an insurable facility and its contents within the special flood hazard area per Stafford Act, Section 406 (d)
- If eligible damages are greater than \$5,000, a subrecipient must obtain and maintain insurance to cover the affected facility for the hazard that caused the major disaster in the amount of the eligible damage to the facility in accordance with the Stafford Act, Section 311. The subrecipient is required to document proof of insurance before the project can be closed by the state. Failure to purchase the required insurance will result in the de-obligation of the project (subaward).
- Insurance and Indemnification (2 CFR § 200.447) – In the event a subrecipient receives insurance compensation in excess of the funds estimated by FEMA, the subrecipient will be required to notify TDEM of the amount received in a formal letter with copies of the check received and the statement of loss by the insurance carrier. TDEM will submit a letter to FEMA with copies of the supplied documentation in order to request an adjustment to the project. Upon processing of the amended project, TDEM will request the subrecipient return any amounts indicated in the project as duplicate benefits.

Assistance will not be provided under Section 406 Repair, Restoration, and Replacement of

Damaged Facilities of the Stafford Act for any facility for which assistance was provided as a result of a previous major disaster unless all insurance required by FEMA as a condition of previous assistance has been obtained and maintained. Not even the deductible amount, or damages in excess of the NFIP limits, or flood damaged items not covered by standard NFIP policy will be eligible.

Subrecipient Project Funding Types

Small Projects

Funding for small projects will be based on the federal share of the project estimate, or the federal share of actual costs for small projects that were 100 percent complete when written. Approved funding will be processed for payment once these projects are certified as 100% complete and a completed Project Closeout Certification (P.4) and Duplication of Benefits (DOB) form have been signed and submitted to TDEM. While the subrecipient is not required to submit expense documentation to TDEM, subrecipients are required to ensure all small projects are completed in accordance with the approved scope and must maintain all project documentation as it is subject to audit by the OIG, FEMA, and other federal and state agencies having oversight of federal grants.

Large and small thresholds will be identified in the Disaster Specific Administrative Plan (DSAP) for each respective disaster. Both thresholds will be updated annually based on the Consumer Price Index (CPI).

Large Projects

Funding for large projects will equal the federal share of the actual eligible cost as verified through a review of the project's cost and other supporting documents that verify compliance with the grant agreement. TDEM will disburse the federal share to the subrecipient upon obligation of funds by FEMA and the receipt of all necessary supporting documentation to include insurance and support for expenditures.

Category Z – Management Cost Interim Policy

Funding for Category Z projects will be based upon actual costs incurred up to five percent of the total award amount for each subrecipient. Eligible costs include indirect costs, direct administrative costs, and other administrative expenses associated with a specific project. The total award amount, for the purposes of calculating the management cost contribution, is the actual eligible PA project costs (federal and non-federal share) after insurance and any other reductions. Category B Donated Resource Project Worksheets are not included in the calculation as they are not project awards.

Category Z projects will be treated as large projects regardless of size when obligated or amended.

Immediate Needs Funding (INF)

INF may be made available for work that must be performed and paid for in the first 60 days after a disaster declaration. INF is capped at 50 percent of the PDA for Categories A and B times the federal share percentage (generally 75 percent). The INF will be deducted from the Category A and B projects as they are obligated. TDEM will consider the needs of the subrecipient and the financial risks involved when reviewing whether to grant such an extraordinary funding request or what terms may apply to a payment under this section.

Pre-award Cost (2 CFR § 200.458)

Pre-award costs are those incurred prior to the effective date of the federal award directly

pursuant to the negotiation and in anticipation of the federal award where such costs are necessary for efficient and timely performance of the scope of work. Such costs are allowable only to the extent that they would have been allowable if incurred after the date of the federal award and only with the written approval of the federal awarding agency. For example, PA PDAs are an eligible cost under State Management Cost when performed pre- award or - declaration.

Reasonable Costs (2 CFR § 200.404)

A cost is reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost. The question of reasonableness is particularly important when the non-federal entity is predominantly federally funded. In determining reasonableness of a given cost, consideration must be given to:

- Whether the cost is of a type generally recognized as ordinary and necessary for the operation of the non-federal entity or the proper and efficient performance of the federal award.
- The restraints or requirements imposed by such factors as sound business practices; arm's-length bargaining; federal, state, local, tribal, and other laws and regulations; and terms and conditions of the federal award.
- Market prices for comparable goods or services for the geographic area.
- Whether the individuals concerned acted with prudence in the circumstances considering their responsibilities to the non-federal entity, its employees, where applicable its students or membership, the public at large, and the federal government.
- Whether the non-federal entity significantly deviates from its established practices and policies regarding the incurrence of costs, which may unjustifiably increase the federal award's cost.

Withholding Payments

Per 2 CFR § 200.305 (a) and (b)(6) (i) (ii) (iii) (iv), in the event that a subrecipient owes federal funding from a previous disaster and does not have a repayment plan in place, TDEM may withhold funding from any new incident until such time as a repayment plan for the de-obligated funding is agreed to by both parties.

Risk Assessments (2 CFR § 200.206)

Evaluation Criteria

For each subrecipient, TDEM will conduct a risk assessment to determine the level of monitoring, state assistance, or additional terms and conditions to be placed on the subrecipient. In evaluating the risk of the subrecipient, TDEM may use those criteria as identified in 2 CFR, 200.206, some of which are identified below:

- Financial stability
- Quality of management systems and ability to meet the management standards prescribed in this part;
- History of performance. The subrecipient's record in managing federal awards, if it is a prior recipient of federal awards, including timeliness of compliance with applicable reporting requirements, conformance to the terms and conditions of previous federal awards, and if applicable, the extent to which any previously awarded amounts will be

expended prior to future awards;

- Reports and findings from audits performed under Subpart F—Audit Requirements of this part or the reports and findings of any other available audits;
- The subrecipient's ability to effectively implement statutory, regulatory, or other requirements imposed on non-federal entities (subrecipients);
- Compliance with Suspension and Debarment requirements as described in 2 CFR § 200.214

Subrecipient Assessment and Monitoring Plan Development

TDEM considers risk factors associated with grants administered by TDEM and evaluates each subrecipient in order to decide where to focus grant-monitoring resources and determine if any additional monitoring may be required. The assessment is based upon an evaluation of both general factors related to overall project risk and the subrecipient's capability and experience.

TDEM will monitor and evaluate the progress and completion of each subrecipient's projects on a continuous monitoring basis. The purpose of this monitoring is to help prevent the risk of improper expenditure of federal funds and the duplication of disaster expenditures between projects. Monitoring and evaluating will include subrecipient instructions on emergency projects, debris removal, environmental compliance, improved projects, alternate projects, contracting processes (including proof of checking the debarment list of eligible contractors), and maintenance of project and financial records. These actions are intended to improve the subrecipient's performance, reduce program non-compliance, and diminish any issues that may arise early on in the process. The monitoring process will include a combination of personal visits, phone calls, and email exchanges with the subrecipient, site visits/inspections of the project, desk audits of invoices and other supporting documentation, and quarterly report progress monitoring.

At a minimum, all subrecipients receive the same level of support and monitoring as described above. Subrecipients are presented with relevant grant guidance information and training opportunities are made available. All procurement actions, payment requests, and quarterly submissions undergo the same level of review regardless of the subrecipients experience, which is documented in the workflows of TDEM's Grants Management System (GMS). Additional monitoring requirements would generally address any deficiencies noted in the subrecipient's compliance with the terms and conditions of the subgrant award and its projects (subawards) or that may result from Single Audit findings and corrective action considerations.

Additional Conditions

In the event a subrecipient is determined to have significant risk based on the above conditions, the federal awarding agency and/or TDEM may impose additional conditions, per 2 CFR § 200.208, such as:

- Denying any requests for advance payments;
- Withholding authority to proceed to the next phase until receipt of evidence of acceptable performance within a given period of performance;
- Requiring additional, more detailed financial reports;
- Requiring additional project monitoring;
- Requiring the subrecipient to obtain technical or management assistance; or
- Establishing additional prior approvals.

If additional conditions are imposed upon a subrecipient, TDEM will meet with the subrecipient and:

- Discuss the nature of the additional requirements
- Explain the reason why the additional requirements are being imposed;
- Describe the nature of the action needed to remove the additional requirement, if applicable
- Advise the time allowed for completing the actions if applicable, and
- Define the method for requesting reconsideration of the additional requirements imposed.

Non-Compliant Subrecipients

As per 2 CFR § 200.208, 200.303(d), 200.331(a) and 200.339(a-f), TDEM can selectively use any or all of the following remedies and prompt actions for non-compliance with any term of an award to include audit findings:

- Increased monitoring of projects and require additional financial and performance reports.
- Disallow advance payment process.
- Temporarily withhold payments pending correction of the deficiency.
- Disallow or deny use of funds and matching credit for all or part of the cost of the activity or action not in compliance.
- Request FEMA to wholly or partially de-obligate funding for a project.
- Temporarily withhold payments pending correction of the deficiency by subrecipient.
- Withhold further awards for the grant program.
- Take other legally available remedies.

Any specific sanctions will be removed once the conditions that prompted them have been corrected and the subrecipient has demonstrated on-going efforts to prevent future non-compliance.

Payment of Funds

Large Projects

A subrecipient may request payment of funds on approved large projects by initiating a Request for Reimbursement or an Advance of Funds Request in GMS, and providing supporting documentation that justifies the request. The total payments for any one project will not exceed the federal share. For on-going projects, a payment request should be submitted at least quarterly. Payment may be requested under the following conditions:

Requests for Reimbursement (RFR)

This request is used to reimburse the subrecipient for eligible costs of approved project scope of work based on paid invoices, internal documents and/or other supporting documentation. The subrecipient will be required to provide proper supporting documentation to TDEM for reimbursement of any claimed costs including proof of payment.

Advance of Funds Request (AFR)

Working Capital Advance

This request may be utilized when funds are needed by the subrecipient, due to a hardship, to pay for approved project scope of work before supporting documentation is available and/or compiled. The subrecipient will be required to provide TDEM with a letter that justifies the hardship and a spend plan. The spend plan must detail amount of funds requested for the next 30 to 60 days, timeline to expend the funds, and eligible cost to be covered by the funds. If approved, TDEM will monitor the project to ensure proper use of the funds and compliance with the spend plan. For a subrecipient to be approved to receive hardship advances on large projects, the subrecipient must be fully in compliance with all grant terms and conditions, additional conditions, other requirements imposed upon subrecipient by FEMA or TDEM, and the subrecipient's assessment must support its ability to properly handle federal grants using this method of payment. Deputy Chief of Recovery & Mitigation approval is required. A subsequent Working Capital Advance cannot be issued until all conditions of the first have been satisfied with the required documentation presented to TDEM. TDEM, at its discretion, may deny use of this process.

Normal advances of funds – to include advances for Expedited Projects

This request may be utilized when funds are needed to pay eligible costs of approved project scope of work based on received invoices and/or supporting documentation. The subrecipient is required to provide TDEM with a letter that justifies that they are able to make payments to its vendors within 5 days of receipt of funds from TDEM or within the timeline of any CMIA agreement they are bound by, whichever is less. The invoices and/or supporting documentation of cost incurred must be submitted as well. To ensure proper use of funds the subrecipient will be required to provide proper supporting documentation to TDEM that the funds were expended. That documentation must be submitted within 30 days of receiving the funds. For a subrecipient to be approved to receive normal advances on large projects, the subrecipient must be fully in compliance with all grant terms and conditions, additional conditions, other requirements imposed upon subrecipient by FEMA or TDEM, and the subrecipient's assessment must support its ability to properly handle federal grants using this method of payment. Deputy Chief of Recovery & Mitigation approval is required. A subsequent advance of funds cannot be issued until all conditions of the first have been satisfied with the required documentation presented to TDEM. TDEM, at its discretion, may deny use of this process.

On advance of funds requests, only the federal share of the amount requested will be advanced. The total amount advanced on any particular project cannot exceed 75 percent of the federal share or 75 percent of the total amount expended, whichever is less, and must equal at least \$5,000. Any deviation to this limit or the timeline outlined above must be approved by the Chief of TDEM, or the Deputy Chief of Recovery & Mitigation.

Small Projects

Small projects will be paid upon completion of work and submission of all necessary closeout documentation to TDEM.

Recouping of Federal Funds

If an approved project is to be totally or partially de-obligated, the subrecipient will be notified as soon as possible. Reimbursement to TDEM will be requested once the amount is known. These funds shall be returned to TDEM within 30 days of receiving notice. Should TDEM have to return any additional federal funds identified, the division will work with subrecipients in obtaining payment. Once payment is received and processed, a refund to SmartLink indicating the associated disaster and PW will be made. TDEM will ensure the funds are available in SmartLink prior to requesting any action resulting in a de-obligation for a specific project.

Owed Federal Funds

Per 2 CFR § 200.346, any funds owed to the federal government must be paid within 90 days after demand. TDEM may impose stricter guidelines in order to comply with federal requirements. If funds have not been reimbursed, the following actions may occur:

- Administrative offset against other requests for reimbursement that are in process and immediately available
- Withholding of advance payments
- Other actions permitted by federal statute
- The federal awarding agency will charge interest for overdue debt in accordance with Federal Claims Collection Standards 31 CFR 900-999.

Payment Tracking (2 CFR § 200.302)

TDEM will make use of GMS in conjunction with the State's Accounting System for payments to subrecipients and State Management Costs in order to track the progress of payments. As payment requests are forwarded for processing, the documents are reviewed and approved by the appropriate levels of management to ensure proper tracking and management of funds.

The state's GMS and Accounting System (FAMIS) will allow for accurate and up-to-date tracking and accountability of:

- Financial status of each federal award or program;
- All awards in terms of budgets and expenditures for both federal and non-federal amounts; and
- All funding and expenditures of each federal award by the Assistance Listing Number number, award identification number and name of each awarded entity.

Administrative Compliance

Regulations

TDEM will ensure compliance with all relevant programmatic requirements of 44 CFR and 2 CFR, many of which are referenced in this document.

Tracking Funds

PA funds will be tracked by disaster, subrecipient, and project utilizing NEMIS/EMMIE, GMS

and/or FAMIS.

Excess Cash

TDEM draws down money from SmartLink, Health and Human Services cash management tracking program utilized by FEMA, as funds are needed. The Cash Management and Improvement Act requires the efficient transfer of federal financial assistance between the federal Government and states. In the event an over-draw occurs and/or interest is generated (over \$500), the money will be transferred back into SmartLink or paid by check to FEMA upon discovery.

Reconciliation

TDEM routinely conducts reconciliations between program and financial systems. These reconciliations will be conducted at a minimum of one time per year. Reconciliation will consist of comparing EMMIE reports to those generated by TDEM's State Payment System. At least quarterly, TDEM will reconcile financial reporting to the SF 425 report generated by TDEM and submit the required Federal Cash Transaction report to FEMA.

Financial Statistics

Current financial information will be derived from a combination of reports from subrecipients, program personnel, and financial staff. TDEM will keep track of the subrecipient cost-share participation by reports provided from GMS. TDEM ensures the subrecipient's cost share is maintained by never reimbursing or advancing more than the federal share of eligible expenses.

Internal Control

TDEM will evaluate and monitor the subrecipient's compliance with federal statutes, regulations, terms and conditions of the federal award, and guidance in "Standards for Internal Control in the Federal Government" issued by the Comptroller General of the United States or the "Internal Control Integrated Framework", issued by the Committee of Sponsoring Organizations of the Treadway Commission.

TDEM will take reasonable measures to protect personally identifiable information (PII) and other information designated or considered sensitive in accordance with applicable state and federal laws. TDEM limits access to GMS to include only those who require access for the purpose of conducting official business as it pertains to the management of grant and sub-grant awards. Hard copy files are used on a limited basis, and all documents containing PII are destroyed when no longer needed.

Interest Earned

Per 2 CFR § 200.305(9), the non-federal entity must maintain advance payments of federal awards in interest-bearing accounts, unless the following apply:

- The non-federal entity receives less than \$250,000 in federal awards per year.
- The best reasonably available interest-bearing account would not be expected to earn interest in excess of \$500 per year on federal cash balances.
- The depository would require an average or minimum balance so high that it would not be feasible within the expected federal and non-federal cash resources.
- A foreign government or banking system prohibits or precludes interest-bearing accounts.

Interest earned amounts up to \$500 per year may be retained by the non-federal entity for

administrative expense. Any additional interest earned on federal advance payments deposited in interest-bearing accounts must be remitted annually to the Department of Health and Human Services Payment Management System (PMS) through an electronic medium using either the Automated Clearing House (ACH) network or a Fedwire Funds Service payment. Remittances must include pertinent information of the payee and nature of payment in the memo area (often referred to as “addenda records” by financial institutions) as that will assist in the timely posting of interest earned on federal funds. Pertinent details include the Payee Account Number (PAN) if the payment originated from PMS, or agency information if the payment originated from ASAP, NSF or another federal agency payment system.

Program Income

TDEM encourages subrecipients to generate program income to help defray program costs. Subrecipients must deduct this income from total project costs as specified in 2 CFR Sections 200.80 and 200.307. If the Federal awarding agency does not specify in its regulations or the terms and conditions of the Federal award, or give prior approval for how program income is to be used, program income may be:

- 1) Used to reduce the Federal award and non-Federal entity contributions rather than to increase the funds committed to the project; added to the Federal award by the Federal agency and the non-Federal entity;
- 2) The program income must be used for the purposes and under the conditions of the Federal award;
- 3) Or used to meet the cost sharing or matching requirement of the Federal award. The amount of the Federal award remains the same (2 CFR 200.307).

Record Retention

The subrecipient will be required to keep complete records of all work (i.e. receipts, checks, job orders, contracts, equipment usage documentation and payroll information) funded under the PA program for a minimum of three (3) years after the date of transmission of the final expenditure report for project completion as certified by TDEM for each project. TDEM certifies the final expenditure report upon notification to the subrecipient of project closure with FEMA. Additionally, records shall be retained for three (3) years after any real estate or equipment final disposition. During this three-year period, all approved projects are subject to state and federal audit/review (2 CFR § 200.335 (a-c)). The DHS or TDEM may direct subrecipient to retain documents or to transfer certain records to DHS custody when DHS determines that the records possess long- term retention value.

- If any litigation, claim, or audit is started before the expiration of the three-year period, the records must be retained until all litigation, claims, or audit findings involving the records have been resolved and final action taken.
- When the non-federal entity (subrecipient) is notified in writing by the federal awarding agency, cognizant agency for audit, oversight agency for audit, cognizant agency for indirect costs, or pass-through entity to extend the retention period.
- Records for real property and equipment acquired with federal funds must be retained for three years after final disposition

General Procurement Standards (2 CFR § 200.317-327 and Appendix II to Part 200 [AandL])

The non-federal entity (subrecipient) must:

- Use its own documented procurement procedures, which reflect applicable state, local;

and tribal laws and regulations, provided that the procurements conform to applicable federal law and the standards.

- Maintain oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of its contracts or purchase orders.
- Make available, upon request for review, pre-procurement documents or modifications to contract scope of work or increases in the contract amount by more than the Simplified Acquisition Threshold.
- Maintain written standards of conduct covering conflicts of interest and governing the actions of its employees engaged in the selection, award and administration of contracts.
- Avoid acquisition of unnecessary or duplicative items.
- Consider the use of value engineering clauses in contracts for construction projects of sufficient size to offer reasonable opportunities for cost reductions.
- Award contracts only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement.
- Maintain records sufficient to detail the history of procurement. These records will include, but are not necessarily limited to, the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price.
- May use a time and materials type contract only after a determination that no other contract is suitable and if the contract includes a ceiling price that the contractor exceeds at its own risk. "Time and materials type contract" means a contract whose cost to a non-federal entity is the sum of:
 - The actual cost of materials; and
 - Direct labor hours charged at fixed hourly rates that reflect wages, general and administrative expenses, and profit.
- Be responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements.

Full and Open Competition for Procurement

All procurement transactions must be conducted in a manner providing full and open competition consistent with the standards in 2 CFR 200 Procurement Standards. In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, or invitations for bids or requests for proposals must be excluded from competing for such procurements.

Procurement Methods

The non-federal entity (subrecipient) must use one of the following methods of procurement in accordance with 2 CFR § 200.320.

Procurement by micro-purchase

- Currently set at \$10,000

Procurement by small purchase procedures

- Applies to contracts less than \$250,000
- Requires only quotes

Procurement by sealed bids

- Preferred method when procuring construction contracts
- Awarded to lowest responsive, reasonable bidder

Procurement by competitive proposals

- RFP: qualifications and price selection
- RFQ: qualifications only based selection (Architectural and Engineering design services only)

Procurement by noncompetitive proposals

- RESTRICTIVE. Must meet the requirements of 2 CFR § 200.319
- Includes sole source, Extraordinary Circumstances and Insufficient Responses.
- Requires Cost Analysis

Underutilized Business Rules

A non-federal entity (subrecipient) must take all necessary steps listed in 2 CFR 200.321 to contract with small and minority businesses, women's business enterprises and labor surplus area firms.

Domestic Preferences for Procurements

A non-federal entity must take all necessary steps listed in 2 CFR 200.322 to procure goods, products, or materials produced in the United States.

Procurement of Recovered Materials

A non-federal entity must take all necessary steps listed in 2 CFR 200.323 to ensure compliance with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act.

Special Procurement Rules

The non-federal entity (subrecipient) must meet the requirements of 2 CFR § 200.324, Contract Costs and Price:

- Perform a cost or price analysis in connection with every procurement action in excess of the Simplified Acquisition Threshold including contract modifications.
- Negotiate profit as a separate element of the price for each contract in which there is no price competition and, in all cases where cost analysis is performed.
- NOT use cost plus a percentage of cost and percentage of construction cost methods of contracting.

Inclusions of Required Contract Provisions

Subrecipients' contracts, in addition to other provisions required by the Federal agency, must contain provisions covering the following, as applicable (Appendix II to Part 200, Contract Provisions for Non-Federal Entities Under Federal Award):

- Administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms and provide for such sanctions and penalties as appropriate.
- For all contracts in excess of \$10,000, termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement.
- Equal Employment Opportunity.
- Contract Work Hours and Safety Standards Act
- Rights to Inventions Made Under a Contract or Agreement.

- Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended
- Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)

Project Options

The subrecipient has several options related to funding of recovery efforts under the PA program (44 CFR § 206.203). The options must be requested and approved in advance. If the request is denied and not forwarded by TDEM to FEMA, the subrecipient will be afforded the opportunity to submit an appeal to TDEM for consideration. The appeal shall contain documented justification supporting the appellant's position. Appeals must be submitted within 60 days of being notified by FEMA. The options are outlined below.

Scope Changes to Existing Projects

When a subrecipient discovers hidden damage, additional work necessary to complete the project or certain costs that are higher than those used to make the estimate for the Project Worksheet, the subrecipient is required to submit a request to change the scope of work to TDEM within 60 days of the discovery. TDEM will forward the request to FEMA with the state's recommendation. If disapproved, the subrecipient will be notified in writing the reason the request was denied and advised of its right to appeal the determination.

406 Hazard Mitigation

Where it is feasible, subrecipients may request 406 Mitigation be added to the repair of the damaged elements of a facility. For hazard mitigation measures to be approved, the measures must be reviewed by FEMA staff to ensure eligibility, technical feasibility, environmental and historical compliance and cost effectiveness. The subrecipient will work with TDEM and FEMA in the development of a site-specific 406 mitigation proposal. FEMA will add the mitigation proposal, when approved, to the original project. If disapproved, the subrecipient will be notified in writing the reason the request was denied and advised of its right to appeal the determination.

Improved Projects

A subrecipient must submit a letter of request with supporting documentation for improved projects to TDEM prior to beginning construction. This request should contain:

- The reason for requesting an improved project.
- A clearly defined description of the proposed work.
- A time schedule of the work.
- A cost estimate.
- Necessary assurances to document compliance with all Special Considerations.

Approved funding will be limited to the federal share of the previously approved project amount, so subrecipients will be specifically warned about ensuring that all damages and required code upgrades from the original damages have been discovered and accounted for in the original project. If funding is not approved, the subrecipient will be notified in writing the reason the request was denied and advised of its right to appeal the determination. Any improved project that may change the current environmental and or historical clearances must be approved by FEMA prior to the start of construction.

Alternate Projects

A subrecipient must submit a letter of request with supporting documentation to conduct an

alternate project prior to beginning work or construction. TDEM will review the request for eligibility and will ensure that the request contains the following information before forwarding it to FEMA with the appropriate recommendation:

- The reason for requesting an alternate project.
- A clearly defined description of the proposed work.
- A time schedule of the work.
- A cost estimate.
- Necessary assurances to document compliance with the Special Considerations.

Requests for alternate projects must be approved by FEMA prior to starting the proposed work. If the request is approved by FEMA, funding of an alternate project will be reduced by 10 percent of the federal share of the approved project estimate (or 75 percent for PNP subrecipients). If disapproved, the subrecipient will be notified in writing the reason the request was denied and advised of the right to appeal the determination.

Time Limitations

Project completion deadlines are set from the date that a Presidential disaster declaration is approved and apply to all projects approved under the declaration. TDEM will attempt to ensure that approved work is completed within the following timeframes with the exception where time extensions are approved:

Emergency Work 6 months
Permanent Work 18 months
Category Z Management Costs Interim Policy 48 months

FEMA will use a Strategic Funds Management approach with grantees to ensure funds are made available and obligated based on defined projects that the grantee is capable of executing.

Time Extensions (Per 44 CFR § 206.204)

A subrecipient may request a time extension on any approved project by initiating a New Time Extension in GMS. Such a request must be submitted prior to the current completion date in effect and must include an anticipated completion schedule. TDEM may grant up to a one year time extension if the reason for delay is based on extenuating or justifiable circumstances beyond the subrecipient's control or due to unusual project requirements so long as the additional time requested does not exceed the following timeframes:

Emergency Work: an additional 6 months
Permanent Work: an additional 30 months (for a total of 48 months)

The Public Assistance Time Extension Request will require subrecipients to identify the projects requiring an extension, explain the reason for the extension, indicate the percentage of work that has been completed, provide an anticipated completion date, and provide detailed milestones documenting expected progress. The reason for an extension must be based on extenuating circumstances or unusual project requirements that are beyond the control of the subrecipient.

TDEM's philosophy regarding project completion time periods for permanent work (categories C-G) is that subrecipients needing time extensions will be encouraged to complete all work within an additional period of up to one year.

TDEM may grant up to an additional 30 months in time extensions for permanent work after the original 18 months have concluded. Requests for emergency work extensions past the 12-month mark or permanent work time extensions past the 48-month mark will be sent to FEMA for approval.

If a time extension request is submitted and denied, the subrecipient will be afforded the opportunity to submit an appeal to TDEM for consideration. The appeal shall contain documented justification supporting the appellant's position.

TDEM will review and approve all periods of performance and complete all awarded subgrants within the state's period of performance for the PA grant. Project work performed outside of the approved period of performance, is subject to noncompliance determinations and is ineligible for reimbursement or match.

TDEM will notify FEMA of all time extensions that have been approved through use of Grants Portal or EMMIE. Requests for time extensions beyond the state's authority will be forwarded to FEMA for determination with TDEM's recommendation in accordance with the requirements of 44 CFR 206.204(d). Funding of work performed after the last approved completion deadline is subject to being reduced, withdrawn, or disallowed.

Project Monitoring (2 CFR § 200.301, and 200.329)

TDEM will monitor and evaluate the progress and completion of each subrecipient's projects on a continuous monitoring basis. The purpose of this monitoring will be to help prevent the risk of improper expenditure of federal funds and the duplicating of disaster expenditures between projects. Monitoring and evaluating will include subrecipient instruction on emergency projects, debris removal, environmental compliance, improved projects, alternate projects, contracting processes (including proof of checking the debarment list of eligible contractors) and maintenance of grant project and financial records. This information will improve the subrecipient's performance, compliance and will reduce any issues that may arise early in the process. The monitoring process will include any one or a combination of personal visits, phone calls, and email exchanges with the subrecipient, site visits/inspections of the project, desk audits of invoices and other supporting documentation and quarterly report progress monitoring.

To ensure projects continue to progress to completion and closure within the prescribed period of performance and any subsequent approved extensions, it is important that timely responses for information and document requests are received. TDEM has developed a "Request for Information and Documentation Policy and Guideline" establishing an informal and formal progression of efforts to collect requested information from subrecipients. This policy and guideline is included in the Grant Terms and Conditions for each subrecipient during acceptance of the subgrant.

Project Completion (2 CFR § 200.344, 200.345 and 200.346)

Large and Small Projects

Upon completion of all approved work for each project, the subrecipient will be required to submit a Project Completion and Certification Report to TDEM certifying that all work was

completed and all funds were spent in accordance with the grant terms and conditions and/or state agreements for each specific project and the costs were incurred in the performance of eligible work and have been paid. Actual expenditures must be reported. FEMA closes all small projects together when the last small project is completed (44 CFR 206.205). To ensure a timely closeout process, the subrecipient should notify TDEM immediately when it has completed its last small project.

- **Closeout Period (2 CFR 200.344(a))**

Recipients must submit, **no later than 120 calendar days** after the end of the period of performance all financial, performance and other reports as required by the terms and conditions of the award (**previously 90 days**).

Subrecipients must still submit closeout reports to the pass-through entity no later than 90 calendar days, or an earlier agreed upon date, after the end of the period of performance.

- **Liquidation Period (2 CFR 200.344(b))**

Recipients and subrecipients must liquidate all financial obligations incurred under the award **no later than 120 calendar days (up from 90 days)** of the end date of the period of performance as specified in the terms and conditions.

- **Standard Closeout (2 CFR 200.344(g))**

If a recipient submits closeout reports in a timely manner, the federal awarding agency must make every effort to complete closeout actions within one year of the period of performance ending, unless otherwise directed by an authorizing statute. This includes actions in the grants management and payment systems.

- **Administrative Closeout (2 CFR 200.344(h))**

If a recipient or subrecipient does not submit all closeout reports in a timely manner, the federal awarding agency must proceed to administratively close out the award within one year of the period of performance end date with the information available.

- **Reporting Material Noncompliance with Closeout Requirement 2 CFR 200.344(i)**

If the recipient or subrecipient does not provide all closeout reports within one year of the period of performance end date, the federal awarding agency must report the recipient's or subrecipient's material noncompliance with the terms and conditions of the award with the OMB-designated integrity and performance system (currently FAPIIS). Federal awarding agencies may also pursue other enforcement actions per § 200.339.

Large Project

A final physical site inspection for eligible scope of work and program compliance will normally be conducted on large projects after they have been completed and the Project Completion and Certification Report has been submitted. TDEM will physically inspect projects where practicable to ensure completion within scope and, for projects where it is not possible to inspect [i.e. force account labor], review documentation on projects to determine if they were accomplished within scope. For those projects of a technical nature, a qualified member of the applicable State agency to which the project pertains may be requested to assist in conducting a final inspection. The final site inspection should be completed as soon as practical following the receipt of the Project Completion and Certification Report from the subrecipient. No site inspections will be required for projects written as 99 percent or 100 percent complete.

Small Projects

At least 10 percent of small projects for each subrecipient will be physically inspected or documentation will be reviewed to establish completion within scope prior to closing the subrecipient within the disaster. The projects sampled will not include projects that were 99 percent or 100 percent complete when written and therefore previously reviewed during the

project writing process. TDEM will submit a closeout request for all completed small projects for each applicant upon completion of the last small project. The request for closeout of a subrecipients small projects will be submitted to FEMA and include a Project Completion Certification (P.4) for each small project, and certify that the subrecipient completed the approved scope of work and made all payments for all of its small projects in accordance with the FEMA-State Agreement.

Return of Federal Funding

The subrecipient will be required to return the federal funding that was provided for that project in accordance with “Recouping of Federal Funds” located on page 31 of this document. If an approved project is not completed, was covered by insurance/other funding sources [other than state match], is not within the scope of work or is otherwise found to be an unreasonable expenditure in violation of federal grant guidance.

Insurance and Small vs. Large Projects

Projects with eligible costs and eligible damages above the large project threshold amount but reduced because of anticipated insurance proceeds to below the large threshold will be treated as a small project. Once the actual insurance proceeds have been applied and the project falls below the large project threshold, the project will be closed as if it were a small project. The project will not be subject to a non-federal audit but may be reviewed in the 10 percent small project sample.

Cost Overruns for Small Projects (2 CFR § 200.308(e) & 44 CFR § 206.205)

TDEM will verify all significant cost overrun appeals (typically those greater than 10 percent of net costs) submitted by the subrecipient within 60 days of completion of its last small project by conducting a review of all approved small projects for the subrecipient. TDEM will base its recommendation for additional funding on the information obtained during the review and will forward a report to FEMA for final determination. In the event of a gross error or omission in the scope of work, the subrecipient must notify the state as soon as the need for funding is discovered. The subrecipient should not assume the cost overrun can be reported at the end of the project or that additional funding will automatically be approved. Cost overruns are not considered on a project-by-project basis but by requesting supplemental funding for a net cost overrun on all small projects. The subrecipient must submit an appeal, through the state, if the cost overrun significantly exceeds the total costs approved for all small projects. The appeal must be submitted within 60 days of the completion of all small projects and must include documentation of actual costs, including the reasons for the cost increase. The appeal must include projects that experienced cost underruns as well as projects with cost overruns.

Appeals (2 CFR § 200.342 & 44 CFR § 206.206)

In the event that a subrecipient does not agree with the determinations made by FEMA, the subrecipient has the right to file an appeal. This appeal must be submitted electronically in GMS by initiating a New Project Appeal, attaching documented justification supporting the subrecipient's position, specifying the monetary figure in dispute and the provisions in federal law, regulation or policy with which the subrecipient believes the initial action was inconsistent. An appeal must be submitted by the subrecipient within the following time frames:

- Any FEMA/TDEM determination – 60 calendar days from the written notice of the determination being appealed.
- Second/Final Appeals – 60 calendar days from the written notice of the determination made on the previous appeal.

All weekend days and federal holidays count toward the 60-calendar day or 120-calendar daytime limit for submitting an appeal. If the deadline for an appeal falls on a Saturday, Sunday, or federal holiday, the appeal will be considered timely if it is received by the first business day after the deadline. ("Federal Holiday" means a holiday recognized by the Office of Personnel Management).

Appeals should be addressed to the Deputy Chief of Recovery & Mitigation and should contain additional information that the subrecipient wants to have considered. Upon receipt of an appeal from the subrecipient, TDEM will review the material submitted, make such additional investigations as necessary, and will forward the appeal with a written recommendation to FEMA within 60 days.

For presidentially declared disasters on or after January 1, 2016, a subrecipient may choose to arbitrate in lieu of submitting a second appeal if the disputed amount exceeds \$500,000 (or \$100,000 if the applicant is in a "rural area," defined as having a population of less than 200,000 living outside an urbanized area); and the applicant filed a first-level appeal with FEMA pursuant to the time requirements established in 44 CFR § 206.206. The arbitration program is designed to offer an alternate second appeal process by providing final adjudication through an independent, neutral panel of arbitrators for particular PA projects and must be filed within 60 days of receipt of the first appeal decision.

If FEMA does not issue a first-level appeal decision within 180 days of receiving the appeal, the applicant may withdraw the first-level appeal and request Section 423 arbitration. In this circumstance, the applicant must file the request for Section 423 arbitration within 30 days of withdrawing their first appeal.

FEMA may deny any Public Assistance appeals that do not meet the 60-calendar day deadline.

Single Audit Requirement

TDEM will use the Single Audit requirements as the primary guide for monitoring projects of subrecipients. 2 CFR Subpart F, 200.500-520 will be used as appropriate.

- Subrecipients that expend over \$750,000 in total federal assistance in a fiscal year will be required to forward a copy of the Single Audit to TDEM in accordance with the 2 CFR.
- Subrecipients that do not expend over \$750,000 in total federal assistance in a fiscal year will be required to certify that fact in writing to TDEM.
- Failure of a subrecipient to comply with these provisions will result in management action as described in the section on Non-Compliant Subrecipients.

Program Audits

Small Project

There will be no compliance review of projects that are written as small. Large projects reduced to small by anticipated insurance will be treated as a small. TDEM has elected to pay small projects without requiring the submittal of supporting documentation. For projects 100 percent complete when written, TDEM must receive from the subrecipient the certificate of completion and the certification that no duplication of benefits occurred prior to the state closeout. Projects not complete when written will be placed into monitoring.

Large Project – Funding for large projects will equal the federal share of the actual eligible cost as verified through a review of the project's cost and other supporting documents that verify compliance with grant agreement.

Other Audits

The Department of Homeland Security Office of Inspector General (OIG) may audit, at its option, the state PA grant, PA management expenditures claimed and drawn, and any applicable subgrants. The FEMA Recovery Program may audit at its option the state PA grant, PA state management costs claimed and drawn for, and any associated subgrants. The State Auditor's Office completes a single audit on the PA program each year. The TAMUS Auditor's Office also conducts routine financial and program audits in accordance with Texas Government Code, Section 321.020. The program is also subject to Validate as You Go (VAYGo) auditsto assess TDEM's ability to detect, prevent, and recover improper payments within the program.

Records and Reports

Progress Reports (2 CFR § 200.329 and Appendix I (F)(3))

TDEM will submit quarterly progress report information to FEMA, which will explain the status of all large projects that have not received final payment. The progress report will include cost and program compliance. The first quarterly report will be submitted at the end of the first full quarter following the quarter in which the project was obligated.

In order to prepare the quarterly progress reports for FEMA, TDEM will require the subrecipient to provide information, on a quarterly basis, pertaining to the progress of any large project that has not been completed. Furthermore, TDEM will assume reporting responsibility for all projects obligated at 99% or 100% complete when written. Once the subrecipient has completed the project and the required documentation has been submitted, the responsibility will shift to TDEM personnel to complete the subrecipient's quarterly report. TDEM may require quarterly progress reporting on incomplete small projects requiring an extension to its period of performance dates.

Failure to submit required quarterly reports for two or more quarters can result in the withholding or deobligation of funding for subrecipients until all quarterly reports are submitted to TDEM and up-to-date.

Subrecipient Close-Out (2 CFR § 200.344, 200.345 and 200.346)

TDEM will notify FEMA when a subrecipient is ready to be closed-out and assure submission of all closeout documents no later than 90 calendar days after the end of the sub-award. Each subrecipient will be closed-out once it is determined that all work has been completed, all payments have been made, all necessary documents have been received and verified and no further action is pending or anticipated. Final cost-share participation by the subrecipient is captured within GMS. Upon satisfying all closeout criteria for both FEMA and TDEM, the subrecipient will receive notice of its subgrant closure, and will be notified of the records retention period.

Financial Status Report (2 CFR § 200.302(a-b) and 200.328-333)

Quarterly and final financial reports will be submitted to FEMA for state-administered disaster assistance programs authorized by the Stafford Act. The reports shall include a record of expenditures considered to be statutory administrative costs and/or state management administrative costs.

The Cash Transaction Report showing the amounts drawn from SmartLink – per grant - will be completed each quarter to allow time to review and certify the report online by the required deadline. This report is the basic Federal reporting requirement for retaining access to SmartLink draws. The transactions must be certified not later than the 30th of the month following the end of the quarter.

Record Retention (2 CFR § 200.334 (a-f))

Subrecipients must maintain fiscal records and supporting documentation for all expenditures of funds pursuant to the applicable 2 CFR § 200.334-338, further clarified under the Disaster Recovery Reform Act of 2018 and as amended in Stafford Act § 705(b)(1), 42 U.S.C. § 5205. Subrecipient must retain all source documentation for each project for 3 years after the date of transmission of the final expenditure report for project completion as certified by TDEM. TDEM

certifies the final expenditure report upon notification to the Subrecipient of project closure with FEMA.

There are no requirements in the state of Texas that exceed federal requirements. If any litigation, claim, audit or other action involving the records begins prior to the expiration of the three-year period, the records must be maintained until resolution of all issues or until the end of the three-year period, whichever is later. TDEM's records are its own and TDEM does not maintain any subrecipients' records on its behalf. The subrecipient is responsible for maintaining its own records.

Property and Equipment (2 CFR § 200.310, 200.311, 200.212, 200.313, 200.329, 200.333 (c))

Property, equipment and supplies acquired with PA federal funds are subject to the provisions listed above related to ownership, use, procurement, management and disposition of such items. The non-federal entity must, at a minimum, provide the equivalent insurance coverage for real property and equipment acquired or improved with federal funds as provided to property by the non-Federal entity as identified in 2 CFR 200.310. These provisions include:

- Title to the asset is vested with the subrecipient upon acquisition,
- Assets can be utilized as long as they are needed in the federally funded program, or used in other federal programs when the assets are no longer needed in the program in which they were acquired.
- Asset records must include a description of the asset, a serial number or other identification number, the source of asset, title holder name, the acquisition date and cost, percentage of federal participation in the cost of the asset, the location, use and condition of the asset, and any ultimate disposition data including the date of disposal and sale price of the asset.
- A physical inventory of the asset must be taken and the results reconciled with asset records at least once every two years and the information in the inventory must be submitted to TDEM.
- Assets with a current per-unit fair market value of less than \$5,000 that are no longer needed may be retained, sold or otherwise disposed of with no further obligation to the awarding agency. However, a notification of disposition must be sent to TDEM.
- Assets with a current per-unit fair market value in excess of \$5,000 may be retained or sold and the awarding agency shall have a right to an amount calculated by multiplying the current market value or proceeds from sale by the awarding agency's share of the asset. A notification of disposition including the amount of any sale must be sent to TDEM.

External EMMIE Access by Subrecipients

The state can approve access to external EMMIE through the EMMIE gatekeeper role. Normally, only those individuals listed on either the RPA or the DSA forms will be granted access to external EMMIE. In the event that a jurisdiction or PNP subrecipient wants to grant access to additional personnel, TDEM will request an email or letter from one of the individuals listed on the form authorizing access to additional individuals prior to approving those requests. Upon notification that an authorized individual should no longer have access to EMMIE, TDEM will reject that account, ending access for that user.

FEMA Grants Portal

If the jurisdiction has had no account established prior to 2018, access to FEMA's Grants Portal

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is established by submitting an RPA for a FEMA declared disaster. In an ongoing effort to support the Portal, TDEM will proactively invite jurisdictions to register in the Portal. Once registered, each jurisdiction will administer access and permissions for its own jurisdiction.

State Management Costs (2 CFR § 200.331, 200.332, 200.412, 200.413 and 200.414)

Management Cost Pass Through

The state will receive a maximum management cost rate of up to 12 percent, of which up to 7 percent is for the Recipient and up to 5 percent is for Subrecipients. The management cost rate is based on actual costs incurred and will be provided on a reimbursement basis. The total award amount, for the purposes of calculating the management cost contribution, is the actual eligible PA project costs (Federal and non-Federal share), after insurance and any other reductions.

FEMA defines PA management costs as including any of the following when associated with the PA portion of a major disaster or emergency:

- Indirect Costs
- Direct Administrative Costs
- Other administrative expenses associated with a specific project

FEMA defines the total award amount as the actual eligible PA project costs (Federal and non-Federal share) after insurance and any other reductions. Category B donated Resource Project worksheets (PW) are not included in the calculation as they are not project awards.

Record Retention (2 CFR § 200.334 (a-f))

State management cost records will be maintained by TDEM for a minimum of three years following the final closeout notification of the management cost project to FEMA. If any litigation, claim, audit or other action involving the records begins prior to the expiration of the three-year period, the records must be maintained until resolution of all issues or until the end of the three-year period, whichever is later.

Property Management and Services (2 CFR § 200.313 (e) (2) and 200.314 (a))

Property acquired through the use of management costs will become the property of the state and will be managed the same as all other state inventory and in compliance with state laws and procedures. Controlled inventory will be marked as purchased with federal funds. If the fair market value of a piece of equipment is less than \$5,000, the property eventually will either be retained, sold or otherwise surplus with no further obligation toward FEMA. A life expectancy for most goods will be three years. If the fair market value of a piece of equipment is valued over \$5,000, FEMA will have the right to a portion of proceeds from the sale of the piece of equipment.

All groups receiving federal funds must adhere to federal, state and organization standards, statutes and regulations in the procurement of goods and services. This includes bidding or a rationale why bidding was not required.

Development and Maintenance

This plan will be reviewed and updated annually by TDEM, in accordance with federal awarding agency requirements. Amendments will be made to meet current policy guidelines, as required. Any amendments to the annual state plan will be submitted to FEMA for approval. Once approved by FEMA, this plan will be incorporated into the state emergency plan, disaster specific plans or amendments.

The administrative plan will be amended whenever necessary to reflect any material changes in state law or TDEM policy and any new or revised federal statutes and regulations. The amended portions of the plan will be submitted to FEMA for approval.

TDEM utilizes many forms and templates in the administration of grants. TDEM will be requiring applicants to submit RPA's into FEMA's Portal, and will require subrecipients to manage its projects and requests using GMS. These forms and templates have been phased out or eliminated, therefore no forms or exhibits are being included for reference in the SAP.

Special Circumstances

This section addresses exigent issues.

Exigent program issues may arise that would require a waiver to policies contained in this plan. Such waivers will be documented as to the circumstances and the reason the waiver is necessary. Also, such waivers can only be granted by the Chief of TDEM, the Deputy Chief of Recovery & Mitigation, or the Division Chief of Recovery in writing.

Calendar Year 2022 Closeout Goals

This section addresses closeout goals for the year.

Focused closeout efforts are underway to close DR-1780, DR-4029, DR-4136, DR-4159, DR-4255 and DR-4269.

ORGANIZATIONAL CHART

