
Managing Federal Disaster Assistance

Part 1: Statutory Authority



FEMA

The U.S. Constitution

- The Tenth Amendment of the U.S. Constitution reserves to the respective states and the people, all powers not specifically delegated to the Federal Government
- Response to and recovery from a disaster is an action that falls within the police power
- All disasters are local



FEMA

FEMA's Foundational Authority

Title V, Homeland Security Act, 2002 (Public Law 107-296, 116 Stat. 2135 (2002)). 6 U.S.C. §§ 101-557

- Amended by the 2007 DHS Appropriations Act (Public Law 109-295) "*Post Katrina Emergency Management Reform Act*" (PKEMRA)



FEMA

Our Mission

“The primary mission of the Agency is to reduce the loss of life and property and protect the Nation from all hazards, including natural disasters, acts of terrorism, and other man-made disasters, by leading and supporting the Nation in a risk-based, comprehensive emergency management system of preparedness, protection, response, recovery, and mitigation.”

6 U.S.C. §313(b)



FEMA

How? The Stafford Act

Robert T. Stafford Disaster Relief and Emergency Assistance Act (Public Law 93-288), as amended (42 U.S.C. §§ 5121-5207)

- Post Katrina Emergency Management Reform Act (PKEMRA)
- Sandy Recovery Improvement Act (SRIA)
- Disaster Recovery Reform Act of 2018 (DRRA)



FEMA

Managing Federal Disaster Assistance

Part 2: The Declaration Process



FEMA

Declaration Types - Major Disaster

“Any natural catastrophe ..., or, regardless of cause any fire, flood, or explosion, in any part of the United States which in the determination of the President causes damage of sufficient severity and magnitude to warrant major disaster assistance under this Act to supplement the efforts and available resources of the States, local governments, and disaster relief organizations in alleviating the damage, loss, or hardship, or suffering caused thereby.”

42 U.S.C. § 5122(2); 44 CFR § 206.2(a)(17)



FEMA

Assistance Available for Major Disaster

Public Assistance (PA)

- Emergency Work and Permanent Work

Individual Assistance Program (IA)

- Individuals and Households Program (Section 408)
- Mass Care and Emergency Assistance
- Crisis Counseling Program
- Disaster Unemployment Assistance
- Disaster Legal Services
- Disaster Case Management
- Disaster Supplemental Nutrition Assistance

Hazard Mitigation Grant Program (HMGP)



FEMA

Declaration Types - Emergency

“Any occasion or instance for which, in the determination of the President, Federal assistance is needed to supplement State and local efforts and capabilities to save lives and to protect property and public health and safety, or to lessor or avert the threat of a catastrophe in any part of the United States.”

42 U.S.C. § 5122(1); 44 CFR § 206.2(a)(9)



FEMA

Assistance Available for Emergency

Public Assistance

- Debris Removal (“Category A”)
- Emergency Protective Measures (“Category B”)

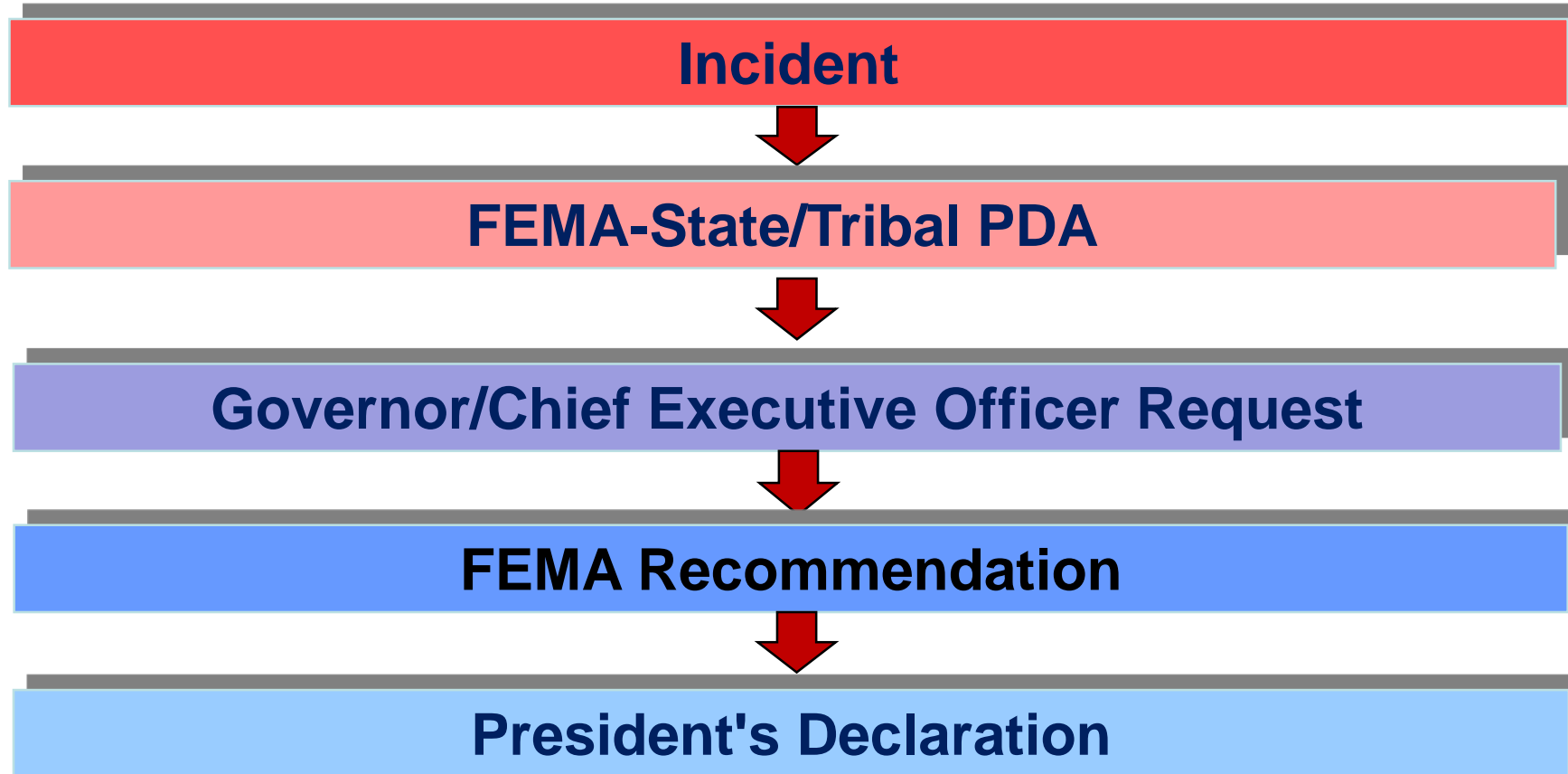
Individual Assistance

- Rarely authorized for Emergencies



FEMA

Declaration Request Process



Declarations and Indian Tribes

- Tribal governments are sovereign entities with primary authority and responsibility for the reservation populace.
- Federally recognized tribes now have the option to petition independently for a Presidential Disaster Declaration.
- Tribes are the primary decision makers for their tribes in times of disaster, administer grants, and are primary recipients of federal funding.



Declaration Request Process

Evaluation Factors Individual Assistance (IA)

- Concentration of damage
- Trauma
- Special populations
- Voluntary Agency Assistance
- Insurance
- Damaged residences – severity and number



FEMA

Declaration Request Process

Evaluation Factors - Public Assistance (PA)

- Estimated cost of the FEMA-eligible damage on a statewide and county per capita basis
- Localized impacts
- Insurance coverage in force
- Hazard mitigation
- Recent multiple disasters
- Other federal agency assistance programs



FEMA

Declaration Request Process

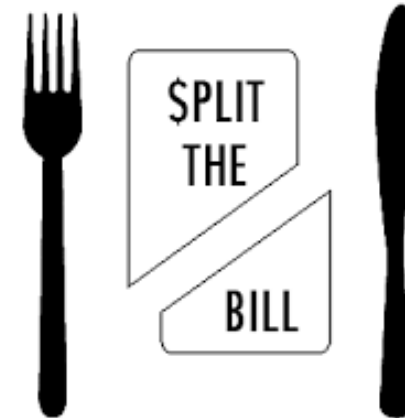
Cost Share:

Public Assistance: 75% Minimum Federal Share

HMGP: 75% Maximum Federal Share

Individual Assistance:

- 75% for Other Needs Assistance
- 100% for Housing



FEMA

Managing Federal Disaster Assistance

Part 3: Overview of FEMA Assistance Programs



FEMA

Disaster Assistance Programs



- Public Assistance Program
- Individual Assistance Program
- Hazard Mitigation Grant Program



FEMA

Regulations & Policies

- 44 CFR Part 206
- Public Assistance Program & Policy Guide (PAPPG)
- Individual Assistance Program & Policy Guide (IAPPG)
- Hazard Mitigation Assistance Guidance



FEMA

Public Assistance

Direct services and financial assistance for supplemental emergency protective measures and permanent restoration of facilities.

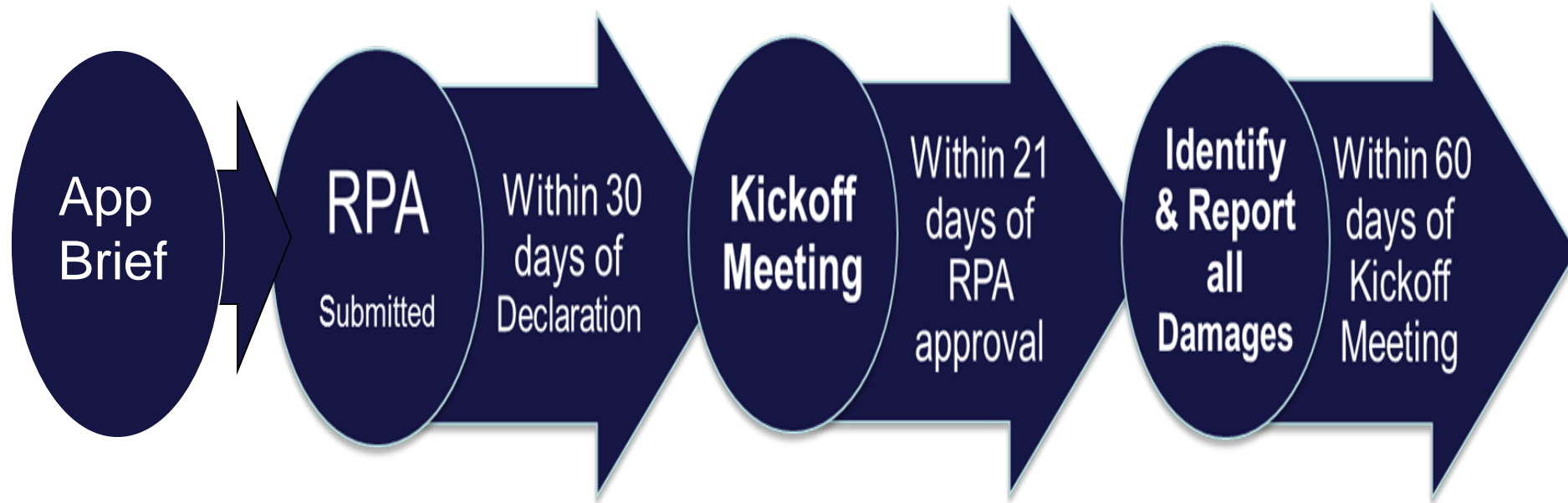
OUR LARGEST GRANT PROGRAM

**\$4.7 BILLION/YEAR
51% OF ALL GRANTS**



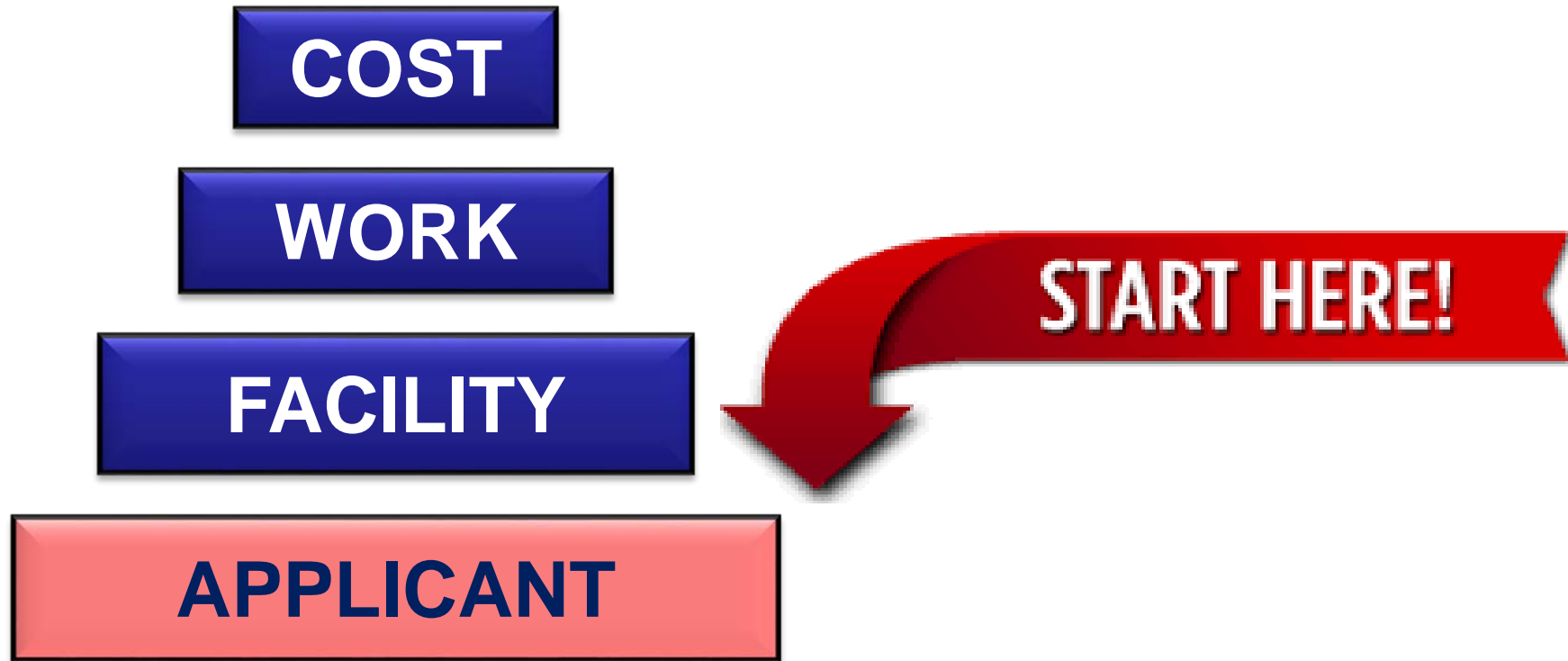
FEMA

Initiating the Public Assistance Process



FEMA

Determining PA Eligibility



FEMA

Eligible Public Assistance Applicants

- State and Local Governments/Agencies
 - Counties
 - Cities, Towns, Villages, Townships
 - Districts and Regional Authorities
 - State/Agency Departments (e.g., Transportation)
- Tribal Governments
- Territorial Governments
- Certain Private Non-profits



FEMA

Public Assistance



Facility Eligibility varies for Public Facilities vs. PNP Facilities.

Skip this step for debris removal or actions to eliminate or lessen immediate threats to life, public health, safety, or improved public or private property.



Public Assistance

- Public Facility
 - Roads/bridges, water control, utilities, public buildings, and parks & recreation
- Private Non-profit Facility
 - Critical Services - Educational, utility, emergency, and medical services
 - Non-Critical, Essential Governmental-Type Services - Community centers, alcohol and drug treatment centers, day care (child or adult), homeless shelters, libraries, zoos, performing arts centers, etc.



Public Assistance



The Work must be:

- Required** as a result of the declared event;
- Located** in the designated disaster area (except for evacuation and sheltering); and
- Legal responsibility** of an eligible applicant



Public Assistance

Emergency Work

Address an immediate threat:

- A** Debris Removal
- B** Emergency Protective Measures

Permanent Work

Restoration of:

- C** Roads/bridges
- D** Water Control Facilities
- E** Buildings/Equipment
- F** Utilities
- G** Parks, Recreational, & Other Facilities



Debris Removal

Debris removal must be in the **public interest**. It must either:

- Eliminate immediate threats to life, public health and safety;
- Eliminate immediate threats of significant damage to improved public or private property through measures that are cost effective; or
- Ensure economic recovery of the affected community to the benefit of the community-at-large.

Applicants must contact Federal, State, Territorial and Tribal regulatory agencies to ensure compliance with requirements and permits for debris-related operations **PRIOR** to beginning work.

Demolition is NOT Debris Removal



FEMA

Public Property Debris Removal

Typically Private Property Debris Removal (PPDR) is not authorized.

Only authorized when eligible applicant can document:

- ✓ Public Interest
- ✓ Legal responsibility and authority
- ✓ Unconditional Authorization
- ✓ Indemnification and Hold Harmless

Must Not Duplicate Other Benefits



FEMA

Mutual Aid & Emergency Assistance Compacts

States/Tribes/Local Governments may agree to share resources. The agreement may be made:

- Pre- or Post- event.
- In writing or verbal.

The most common is the Emergency Management Assistance Compact (EMAC) – administered by NEMA in collaboration with FEMA.

<http://www.emacweb.org>.



FEMA

Effect of Donations

- The value of eligible donated resources may be used to offset the non-Federal share of PA Emergency Work costs.
- Ensure donated resources are properly documented:
 - Fair market value of commodities
 - Hourly rates/time cards of volunteers



FEMA

PA Eligibility - Cost



FEMA

Funding Public Assistance Subaward

1. Site Inspection
2. Project worksheet (within 60 days)
 - FEMA documents the disaster-related damage
 - FEMA establishes the approved scope of work and eligible costs for the project
3. FEMA obligates federal share of the eligible project cost



FEMA

Time Limits

- Period of Performance (Complete Project)
 - 6 months for debris clearance and emergency protective measures
 - 18 months for permanent work
 - Extensions may be granted



Insurance

- There are three key provisions in the Stafford Act that relate to insurance and the PA program:
 - ❑ A requirement to obtain and maintain insurance as a condition of receiving PA grant funding;
 - ❑ A prohibition on duplication of disaster assistance benefits (from any source, including insurance proceeds); and
 - ❑ Deductions from grant funding for certain uninsured facilities located in an Special Flood Hazard Area.



Individual Assistance

- Mass Care & Emergency Assistance (\$\$ by PA)
- Individuals and Households Program (IHP)
- Human Services Programs (Major Disaster Only):
 - Disaster Case Management
 - Crisis Counseling
 - Disaster Unemployment
 - Disaster Legal Services



IA: Mass Care & Emerg. Assistance

Evacuation and sheltering costs are reimbursable as emergency protective measures (PA Category B)

- Congregate or transitional sheltering
- Transitional Sheltering Assistance

Must be accessible for the disabled and those with access and functional needs



Initiating the Individual Assistance Process

3 Ways to Apply for Disaster Aid

ONLINE



disasterassistance.gov

BY PHONE



800-621-3362
(711 or Video Relay
Service available)

800-462-7585 (TTY)

IN PERSON

At one of our
Disaster Recovery Centers



WHAT *to* EXPECT *after* YOU APPLY for FEMA AID



A CALL FROM A FEMA INSPECTOR

A BRIEF INSPECTOR'S VISIT

A DECISION LETTER



FEMA

Individual Assistance

Individuals and Households Program provides financial assistance and direct assistance to people who have unmet necessary expenses and serious housing needs as a direct result of a declared event.

- Rental Assistance (\$\$\$)
- Repair/Replacement Assistance (\$\$\$)
- FEMA supplied housing unit (mobile home or leased unit)



FEMA

Individual Assistance

Other Needs Assistance - Financial assistance for other uninsured disaster-related necessary expenses or serious needs

Examples:

- medical, dental, and funeral expenses
- personal property, transportation, and other expenses

Application to SBA is prerequisite



FEMA

Direct Housing

Purchased or Leased temporary housing units directly provided to Section 408 eligible applicants who lack available housing resources and would be unable to make use of financial assistance.



Hazard Mitigation

- Hazard mitigation is any sustained action taken to reduce or eliminate long-term risk to people and property from natural hazards and their effects.
- Grant Program is Available only under Major Disaster Declaration, and only if Public Assistance or Individual Assistance is designated.



FEMA

Hazard Mitigation Grant Program

- HMGP funding can be used to fund structural and non-structural projects, and the facility does not need to be damaged to use these funds.
- Hazard Mitigation plans are required of state, tribal and local governments. These plans must be approved by FEMA.
- Applicant is the state, territory or tribal government.
- FEMA's eligibility decision is based upon cost effectiveness, technical feasibility and effectiveness, mitigation planning, environmental planning and historic preservation concerns.

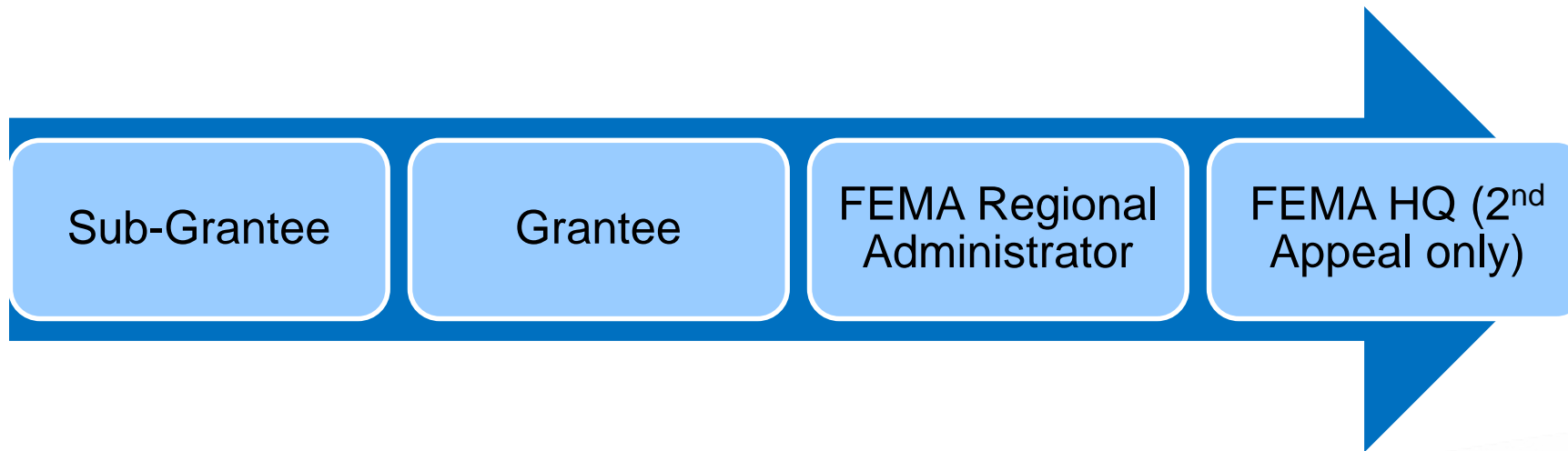


FEMA

Appeals

May appeal any FEMA determination within 60 days

- Two levels of appeal for PA and HMGP
- Only one level for IHP appeal



Duplication of Benefits

- Stafford Act Section 312 provides that FEMA cannot duplicate benefits from other sources and must reduce or de-obligate the amount of funding received from another source for the same work (42 U.S.C. § 5155).
- Examples include insurance proceeds, nonfederal grants and cash donations, third party liability, and other federal awards.



FEMA

Environmental & Historic Preservation

Several environmental laws, regulations and Executive Orders apply to FEMA funded Stafford Act programs.

- NEPA exclusion for most emergency work
- Endangered Species Act and National Historic Preservation Act still apply



FEMA

Managing Federal Disaster Assistance

Part 4: Grant Administration and Procurement



FEMA

Administering the Grant

To be eligible under a grant, a cost must:

- Be properly documented;
- Be reasonable and necessary to accomplish the work;
- Comply with requirements for competitive procurement; and
- Be reduced by Applicable Credits



FEMA

Uniform Administrative Requirements

- Oversight of Subrecipients for Pass-Through Entities (2 C.F.R. § 200.331)
- Procurement Standards (2 C.F.R. §§ 200.317 – 200.326)
- Cost Principles (2 C.F.R. §§ 200.401 – 200.475)
- Closeout (2 C.F.R. § 200.343)
 - ❖ Stafford Act Section 705 - Disaster Grant Closeout Procedures (42 U.S.C. § 5205)



Procurement Standards

State	Other Non-Federal Entities (local and tribal governments, IHE, hospitals, and other non-profits)
2 C.F.R. § 200.317	2 C.F.R. §§ 200.318 through 326
<p>Must follow same policies and procedures it uses for procurements from its non-Federal funds, comply with 200.322 (Procurement of Recovered Materials), and ensure that every purchase order or other contract includes any clauses required by 200.326 (Contract Provisions)</p>	<p>Must follow 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 in 2 C.F.R. §§ 200.318 through 326</p>
<p>Recipients and subrecipients must comply with all applicable federal laws, regulations, and executive orders.</p>	



Procurement Disaster Assistance Team

- Procurement Disaster Assistance Team (PDAT) provides technical assistance pre- and post-event with applicant procurement issues
 - Real time training
 - Contract reviews
- Resources available at:
<https://www.fema.gov/procurement-disaster-assistance-team>



FEMA

Cost Principles

- Apply awards to all non-Federal entities except hospitals and for-profit entities.
- The cost principles are broken into six major parts:
 - General Provisions
 - Basic Considerations
 - Direct and Indirect Costs
 - Special Considerations for States, Local Governments and Indian Tribes
 - Special Considerations for Institutions of Higher Education
 - General Provisions for Selected Items of Cost



Closeout

- The non-Federal entity must submit, ***no later than 90 calendar days*** after the end date of the period of performance, all financial, performance, and other required reports.
- Closeout begins when all applicable administrative actions and all required work of the Federal award have been completed.
- Closeout must be completed no later than ***one year*** after FEMA's receipt of all required final reports.
- Recipients must closeout subawards when they are completed. *2 C.F.R. §200.343*



FEMA

Deobligation



Failure to follow the Administrative requirements could result in complete deobligation of the grant – even if the funds were spent to accomplish the purpose of the grant.



Limitations on Recovery

Stafford Act Section 705

- Applies to States, Tribes and local governments.
- Prohibits FEMA from seeking reimbursement of when all three of the following criteria are met:
 - Payment was made via an approved agreement.
 - The purpose of the grant was accomplished.
 - Costs were reasonable.



FEMA

Managing Federal Disaster Assistance

Part 5: FEMA Legal Points of Contact



FEMA

FEMA's Regional Counsel

Regional Counsel

J.P. Henderson

johnpaul.Henderson@fema.dhs.gov

510-627-7055

Assistant Regional Counsel

Ann Winterman

ann.winterman@fema.dhs.gov

510-627-7081



FEMA