

**97.036**

**PUBLIC ASSISTANCE GRANTS**

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**State Project/Program: PUBLIC ASSISTANCE PROGRAM**

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**U. S. DEPT OF HOMELAND SECURITY**

**Federal Authorization: Robert T. Stafford Disaster Relief and Emergency Assistance Act, Public Law 93-288, as amended, 42 U.S.C. 5121-5207; 44 CFR Part 206, Subparts C and G-L; Disaster Mitigation Act of 2000; Sandy Recovery and Improvement Act of 2013; 2 CFR Part 200**

**North Carolina Department of Public Safety  
Division of Emergency Management**

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The auditor should not consider the Supplement to be “safe harbor” for identifying audit procedures to apply in a particular engagement, but the auditor should be prepared to justify departures from the suggested procedures. The auditor can consider the supplement a “safe harbor” for identification of compliance requirements to be tested if the auditor performs reasonable procedures to ensure that the requirements in the Supplement are current.

The grantor agency may elect to review audit working papers to determine that audit tests are adequate.

**Auditors may request documentation of monitoring visits by the State Agencies.**

This compliance supplement must be used in conjunction with the OMB 2021 Compliance Supplement which will be issued in the summer. This includes “Part 3 - Compliance Requirements,” for the types that apply, “Part 6 - Internal Control,” and “Part 4 - Agency Program” requirements if the Agency issued guidance for a specific program. The OMB Compliance Supplement is Section A of the State Compliance Supplement.

**I. PROGRAM OBJECTIVES**

The Public Assistance Program is designed to provide supplemental assistance to states, local governments and eligible non-profit organizations to alleviate suffering and hardship resulting from major disasters or emergencies declared by the President of the United States. Expenses eligible for reimbursement under the Public Assistance program include: emergency protective measures, debris removal and disposal, and permanent work for the restoration and repair of eligible damaged facilities.

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### II. PROGRAM PROCEDURES

The State Governor requests a Presidential declaration of an emergency or major disaster through the FEMA Region IV Director (RD). Upon declaration of an emergency or major disaster by the President, a State application for Public Assistance is made through the Governor's Authorized Representative (GAR) to the FEMA Region IV Director. Following the granting of a Presidential declaration for a major disaster or an emergency, the Federal Emergency Management Agency (FEMA), awards grants for Public Assistance Program to the State. The State may use the grants **(with special authorization from FEMA on mutual projects)** to fund its own disaster-related projects and to provide sub-grants to local governments and eligible private non-profit facilities.

The Public Assistance Grant Program is administered by the North Carolina Division of Emergency Management (NCEM) in accordance with the FEMA-State Agreement to provide assistance that may be available under an emergency or major disaster declaration. The State acts as the grant administrator for all funds provided under the Public Assistance Grant Program. The recipients of grant funds from NCEM under this program are referred to as sub-grantees or applicants. The FEMA Region IV Director approves grants from these funds based on project applications from eligible applicants. As a condition of receiving assistance under the Stafford Act, local applicants (sub-grantees) are strongly encouraged to implement mitigation measures to reduce future losses from natural hazards. Local applicant briefings are conducted by NCEM for FEMA, state and local personnel for all declared counties. A FEMA form 90-49, Request for Public Assistance, must be submitted by the eligible applicant at the Applicants' Briefing or within 30 days of the date of designation of an emergency or major disaster declaration for the Public Assistance Grant Program.

Public Assistance Program grants are made based upon Project Worksheets (PWs) prepared by the project formulation teams. The project formulation teams normally include a representative of FEMA, the State or its reservist representative, and an affected sub-grantee representative. The Project Worksheets document the eligible damages, scope of work necessary to repair the facility to its pre-disaster condition, and the estimated and/or actual costs for the project. Each PW has a control number and any supplemental amendments to a specific PW will be referenced as a version to the original PW.

Project funding for large and small projects is based upon the cost of the eligible work for the individual project. Projects that equal or exceed the threshold of \$121,800 are large projects. Projects below this threshold are small projects. This threshold is adjusted by FEMA each October to reflect change in the Consumer Price Index. The thresholds are published in the *Federal Register*, and the date of disaster declaration determines the threshold in use for the particular disaster. For 2016 Federal Fiscal year the Statewide per capita impact indicator is \$1.41.

#### *Small Projects*

Applicants (sub-grantees) may make their own estimates for small projects and prepare PWs to be submitted through the State to FEMA. FEMA and the State will then take a 20 percent sample of the small projects and verify that the scope of work is eligible and that the cost estimate is reasonable. If the sample passes this validation, FEMA accepts the PWs from the applicant and obligates the funds. If the sample fails, a second 20 percent of PWs is reviewed. If the second sample fails, a State or FEMA specialist will be assigned to assist the applicant in reformulating and resubmitting all

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small projects to FEMA. If an applicant elects not to formulate its own small projects, a State or FEMA representative is assigned to formulate the applicant's small projects.

For small projects, final payment of the Federal share of eligible costs is made upon approval of the project. The amount awarded for small projects based on the PW generally will not change except under unusual circumstances, such as the work was not done, there is an unexpected insurance recovery, or there is an obvious error in calculation. At closeout of the disaster project, the State is required to certify that all projects were properly completed and that the State contribution, as specified in the FEMA-State Agreement, was paid to each sub-grantee. However, this certification does not specify the exact amount spent by a sub-grantee on small projects (only the estimated repair cost). If the actual cost for small projects is less than the estimated cost on the PW, FEMA generally will not ask for a refund. Similarly, FEMA generally will not provide additional funding when actual costs exceed the small PW estimate. However, when a sub-grantee has significant overruns, it may request additional funding based upon the total (net) final costs for all small projects (44 CFR §§206.204(e), 206.205(a)). The small projects then will be treated as a large projects based on actual receipts for eligible project costs incurred.

### *Large Projects*

For large projects, the State must make an accounting to FEMA of eligible costs for each approved large project. In submitting the accounting, the State must certify that reported costs were incurred in the performance of eligible work, that the approved work was completed, that the project is in compliance with the FEMA-State Agreement, and that payments for the project have been made in accordance with the A-102 Common Rule's requirements for payment. The sub-grantee is required to make similar accounting and certifications to the State. If actual costs are less than the approved amount, then the FEMA share will be based upon the actual costs. The sub-grantee may request additional funding for eligible cost overruns on large projects. For additional funding, these requests must include a written recommendation from the State and approval of the FEMA Regional Director (44 CFR §§206.204(e), 206.205).

### **III. COMPLIANCE REQUIREMENTS**

Noted below in the following matrix are the types of compliance requirements that are applicable to the federal program. These Types are determined by the federal agency, noted as "Y," on the "Matrix of Compliance Requirements" located in Part 2 of the OMB 2021 Compliance Supplement; however, the State Agency may have added the Type and this is noted by "Y." If the State determines that the federal requirement does not apply at the local level or if the State modifies the federal requirements, this is noted in the supplement under the type of compliance requirement. If the federal and/or State agencies have determined that the type is not applicable, it is noted by "N."

If the Matrix indicates "Y," the auditor must determine if a particular type of compliance requirement has a direct and material effect on the federal program for the auditee. For each such compliance requirement subject to the audit, the auditor must use the OMB 2021 Compliance Supplement, Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and Part 4 (which includes any program-specific requirements) to perform the audit.

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A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/ Cost Principles	Cash Management	Eligibility	Equipment/ Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement Suspension & Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	Y	N	N	Y	Y	Y	Y	Y	Y	Y

A. Activities Allowed or Unallowed

Compliance Requirement

Only those activities that provide supplemental disaster assistance as documented by State and FEMA approved Project Worksheets are allowed in areas that are subject to a disaster or emergency declared by the President of the United States.

Suggested Audit Procedures

Test expenditures and related records in the sub-grantee’s file for maintenance of required documentation (procurement, contracts, invoices, force account summaries for labor, equipment and materials, personnel policy, building codes, insurance settlements, project extension approvals, improved/alternate project approval if applicable and debris documentation) and adherence to project expenses as approved in the Project Worksheet.

B. Allowable Costs/Cost Principles

Compliance Requirement

Only relevant and necessary costs as authorized by the FEMA-State Agreement and contained in approved PWs and those costs enumerated in 2 CFR 200 are allowed.

Suggested Audit Procedures

1. Review the FEMA-State Agreement and/or the State-Applicant Agreement.
2. Select a sample of Project Worksheets and ascertain if the sub-grantee’s files document the costs as allowable costs for the approved PWs and costs allowed by 2 CFR 200.

C. Cash Management

Compliance Requirement

Funds are remitted to sub-grantees on a reimbursement basis except in the case of small projects (less than \$121,800), where the total estimated amount of the PW is paid to the sub-grantee based on approval of and authorization of funds for the project worksheet by FEMA.

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### Suggested Audit Procedures

Verify that the applicant expended the entire advancement for small projects as specified in the approved Project Worksheets or by FEMA policy guidance.

#### D. Reserve

#### E. Eligibility

This requirement is not applicable at the local level, and no additional audit procedures are necessary.

#### F. Equipment and Real Property Management

This requirement is not applicable at the local level, and no additional audit procedures are necessary.

#### G. Matching, Level of Effort, Earmarking

### Compliance Requirement

Funding for the Public Assistance Grant Program is paid proportionately by the State agency (NCEM) and FEMA. Generally, the Federal contribution is 75% and the State contribution is 25%. For large disasters that exceed the North Carolina Statewide Impact Cost Share Adjustment (such as Hurricanes Floyd and Fran), the matching ratio will be adjusted to 90% Federal and 10% State. The N. C. Division of Emergency Management serves as Grantee for all funds under this program. The recipients of grant funds from NCEM under this program are referred to as sub-grantees or applicants. Currently, there is no match requirement at the local level for federally declared disasters.

Level of Effort and Earmarking are not applicable at the local level and no test work is required

#### H. Period of Performance

### Compliance Requirement

The applicant should identify and report all damages to FEMA within 60 days of their "Kick-off Meeting" with FEMA and NCEM. Note that this date could be different for each applicant. For large disasters this 60-day period to identify and report damage may be extended. Projects must be completed within the time limits established under 44 CFR §206.204.

### Suggested Audit Procedures

Review a sample of projects to determine whether they were completed within approved time limits. Review sub-grantee documentation to determine whether time extensions were properly requested and granted.

#### I. Procurement and Suspension and Debarment

### Compliance Requirement

According to 2 CFR 200 and as stated in the grant agreement, grantees and sub-grantees must comply with Federal Debarment and Suspension regulations by requiring completion of the "Certificate Regarding Debarment, Suspension,

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Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions” by sub-recipients prior to entering into a financial agreement with the sub-recipients for any transaction as outlined below:

Any procurement contract for goods and services, regardless of amount, under which the sub-recipient will have a critical influence on or substantive control over the transaction, the sub-grantee is responsible for monitoring the submission and maintaining the official document for review by the Public Assistance Staff.

### Suggested Audit Procedures

1. As stated in the grant agreement, verify that all contracts have received prior approval by the Public Assistance Staff prior to execution.

2. A certificate is required regarding debarment and suspension from the contractor

### J. Program Income

#### Compliance Requirement

Program income means the gross income received by a grantee or sub-grantee directly generated by a grant-supported activity, or earned only as a result of the grant agreement during the grant period. Unless otherwise provided in the regulations of the Federal agency, program income does not include interest on grant funds, rebates, credits discounts, refunds, etc. It does not include interest earned on rebates, credit discounts, refunds, etc. Pursuant to 44 C.F.R. §13.25, program income should be deducted from allowable costs under the grant unless otherwise authorized by the granting authority.

#### Suggested Audit Procedures

Verify that program income has been deducted from allowable costs under the grant unless otherwise authorized by the granting authority.

### K. Reserve

### L. Reporting

#### Compliance Requirement

Sub-grantees must submit monthly progress reports for all large projects with ongoing work until the work is reported as 100% complete.

#### Suggested Audit Procedures

1. Review FEMA-State Agreement and/or State-Applicant Agreement with related budgets.

2. Test reports for completeness and verify amounts reported to accounting records.

3. Verify that disbursements adhere to agreement-approved budget categories.

#### Compliance Requirement

Sub-grantees are required to maintain proper documentation to support reimbursement claims shown on approved Project Worksheets submitted to the State.

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### Suggested Audit Procedures

1. Review the procedures for preparing and submitting reimbursement claims and evaluate for adequacy.
2. Review claims submitted and reimbursements received from the State and verify against accounting records and financial reports.
3. Test sample of documentation on file to support reimbursement claims (i.e. project worksheets, written estimates, worksheets, invoices, etc.)
4. Trace documentation to entries made on accounting records and financial reports.
5. Review any adjustments made to general ledger entries and evaluate propriety.

### M. Subrecipient Monitoring

The local recipient (sub-grantee) does not provide further sub-grants, therefore this requirement is not applicable at the local level. No additional audit procedures are necessary. However, the assigned project grants manager works closely with the sub-grantee to ascertain that project funds are expended for eligible work.

### N. Special Tests and Provisions

#### 1. *Insurance*

##### Compliance Requirement

As a condition of receiving Federal assistance for restoration of certain facilities, sub-grantees may be required to obtain and maintain specified types and amounts of insurance. (See 44 CFR §206.250, et seq.) This requirement is stipulated on the obligated project worksheet.

##### Suggested Audit Procedures

1. Review a sample of those projects for which insurance commitments were required.
2. Determine whether the type and extent of insurance required were obtained and maintained.

#### 2. *Duplication of benefits*

##### Compliance Requirement

Funds for insurance settlements, salvage, or other sources for specific losses must be deducted by the sub-grantee from its claim. This prevents duplication of benefits.

##### Suggested Audit Procedures

1. Review insurance policies, minutes of legislative body meetings and other sources likely to reveal the existence of insurance claims, salvage payments and similar payments.
2. Test financial records and determine that any such receipts were processed in the proper manner.

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3. Obtain a representation letter containing a statement that no insurance recoveries, salvage receipts, or other payments for specific losses were received other than those listed.

### *3. Improved Projects*

#### Compliance Requirement

Funds approved and capped for an improved project can only be used as a contribution toward the construction of larger or improved facilities that restore at least the pre-disaster function of the damaged or destroyed facility. (44 CFR §206.203) The sub-grantee must complete and submit the FEMA Alternate or Improved Project Request form to the Grantee for approval.

#### Suggested Audit Procedures

1. Review a sample of project worksheets for damaged or destroyed facilities.
2. Ascertain amount provided for improved projects.
3. Ascertain costs for new facilities.
4. Verify that the improved facilities are restored in accordance with the scope of work set forth in an improved project request that has been approved by the Governor's Authorized Representative (GAR) or Alternate GAR.

### *4. Alternate Projects*

#### Compliance Requirement

In any case where a sub-grantee determines that the public welfare would not be best served by restoring a damaged public facility or the function of that facility, a request may be made through the State (Grantee) to the FEMA Regional Director for approval of an alternate project. Funds contributed for alternate projects may be used to repair or expand other selected public facilities, to construct new facilities, or to fund 406 hazard mitigation measures. These funds may not be used to pay the non-Federal share of any project, or any operating expense (44 CFR §206.203).

#### Suggested Audit Procedures

1. Review a sample of the alternate projects on which the claim was based and compare with the approved alternate projects.
2. Ascertain the costs incurred for the alternate projects to ensure that total costs of the projects equal or exceed the Federal, State and local share.

### *5. Administrative Costs*

#### Compliance Requirement

All costs of requesting, obtaining, and administering Public Assistance at the sub-grantee level are covered by a statutorily-established percentage ("sliding scale") and no costs of administering the program other than the percentage

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should be included in a sub-grantee's claim (44 CFR §206.228). (This is for all declared disasters prior to 11/13/2007.) For disasters declared after 11/13/2007, the percentage "sliding scale" method for determining sub-grantee administrative costs no longer applies. Instead, sub-grantees may request only project-specific "direct administrative costs" with supporting documentation submitted to FEMA relating to administrative costs associated with each individual PW in accordance with 2 CFR §200.413.

### **Suggested Audit Procedures**

Review the claims to ensure that costs covered by the statutorily-established administrative expenses percentage ("sliding scale") are not claimed under the Public Assistance Program even though such costs may be authorized under the Office of Management and Budget (OMB) Circular A-87 for administration of a grant. (This is for all declared disasters prior to 11/13/2007). For disasters declared after 11/13/2007, sub-grantee project-specific direct administrative costs can be claimed in accordance with 2 CFR §200.413.

## **6. *Payment of Claims***

### **Compliance Requirement**

For large projects, the State must make an accounting to FEMA of eligible costs. Similarly, the sub-grantee must make an accounting to the State. In submitting the accounting, the grantee or sub-grantee is required to certify that reported costs were incurred in the performance of eligible work, that the approved work was completed, that the project is in compliance with the FEMA-State Agreement and/or the State-Applicant Agreement, and that payments for the project were made in accordance with the A-102 Common Rule's payment provisions. For improved and alternate projects, if the total cost of the project does not equal or exceed the approved eligible costs, the auditor should expect to see an adjustment to reduce eligible costs (44 CFR §206.205).

### **Suggested Audit Procedures**

1. *Projects not completed* – Select a sample of ongoing large projects and ascertain if costs submitted for reimbursement were in compliance with the requirements of eligible work under the applicable PW and in accordance with the required certifications. Testing should consider the differences in the requirements and approvals required of improved and alternate projects.
2. *Completed projects* – Select a sample of large projects completed during the audit period and ascertain if the sub-grantee's files document the total costs as allowable costs and if the costs are for allowable activities under the applicable PW and in accordance with the required certifications. This testing should consider the differences in the requirements and approvals required of improved and alternate projects.