

CHAPTER 2

Emergency Management Assistance

2-1. General. This chapter provides policy, mandatory criteria and requirements, and general guidance to supplement the regulations 44 CFR, Part 302. 44 CFR, Part 302 and Amendments 1 and 2 are reproduced as appendix A to this CPG.

2-2. Objective.

a. The EMA Program provides Federal contributions to State and local governments not to exceed one-half of eligible necessary and essential expenses for emergency management personnel salaries, benefits, travel, office supplies and administrative equipment, rent and maintenance of office space, utilities, and insurance.

b. The objective of the EMA Program is to increase the operational capability for emergency management at State and local levels of government, including development and maintenance of a trained experienced staff of full-time emergency management professional personnel.

2-3. Definitions.

a. State-Level EMA Statement of Work. A document (FEMA Form 76-43) submitted annually to FEMA by a State seeking eligibility for Federal matching funds under the EMA Program. The State's statement of work sets forth the annual schedule of tasks, activities, accomplishments, and products for the improvement of deficiencies in its emergency management program and will, in general, indicate the emergency management objectives to be attained by participant local agencies. The States shall use FEMA Form 76-43 to summarize the total State and local effort by project or activity. Narrative statements that describe activities that cannot be quantified may supplement the FEMA Form 76-43.

b. Local EMA Statement of Work. A document submitted annually by a local agency to a State to indicate planned accomplishments, activities, and products for the year for which it is seeking eligibility to receive Federal matching funds to conduct its local emergency management program. The FEMA Form 76-43 may be used by local jurisdictions, at their States' option and instructions, in providing their States with expected activities and reports of completed products.

c. Necessary and Essential Civil Defense Expenses. Expenses required for the proper and efficient administration of the Civil Defense Program of a grantee or a subgrantee, as described in the State administrative plan and in State and local statements of work approved by the Regional Director. (Eligibility of specific costs is covered in paragraphs 2-9 and 2-10.)

2-4. State and Local Responsibilities.

a. In order to qualify under this program, emergency management agencies must be responsible under State law for:

(1) Fulfilling the eligibility requirements to participate in the EMA Program;

(2) Complying with Federal policy, regulations, and procedures;

(3) Determining that local emergency management agencies meet Federal eligibility requirements;

(4) Determining additional State eligibility requirements for local emergency management agencies;

(5) Making equitable allocations of Federal funds among localities;

(6) Providing assistance and guidance to local participants related to their eligibility, conformance, and administration of the EMA Program; and

(7) Evaluating performance of local participants and their compliance with Federal standards.

b. Local emergency management agencies are responsible for:

(1) Fulfilling the eligibility requirements to participate as subgrantees of the State in the EMA Program;

(2) Complying with Federal policy, regulations, and procedures; and

(3) Complying with additional State eligibility requirements.

2-5. Eligibility for EMA Program.

a. State and local emergency management agencies must meet the following eligibility requirements:

(1) Be an emergency management agency established by law;

(2) Have a full-time or part-time EPM;

(3) Be in compliance with Title VI of the Civil Rights Act of 1964; and

(4) Have an approved personnel merit system consistent with personnel standards prescribed by the OPM in 5 CFR, Part 900, Intergovernmental Personnel Act, Standards for a Merit System of Personnel Administration reproduced as appendix B. Procedures for merit system compliance are contained in subparagraph 1-9a(3). All State and local employees, except for those coordinators who are specifically exempt, must be appointed through and serviced by the approved merit system. This requirement also applies to all employee positions in other State and local agencies for which contributions are requested under the emergency management agency's submission.

(5) Submit and update annually their HICA-MYDP required by CPG 1-34, HICA and MYDP Overview, CPG 1-35, HICA and MYDP for Local Governments, and CPG 1-36, Capability Assessment and MYDP for State Governments.

b. States must meet the following eligibility requirements:

(1) Have on file at the FEMA regional office a current State administrative plan approved by the Regional Director as meeting the criteria in 44 CFR, Part 302.3(a). The State administrative plan is defined in subparagraph 1-7f. Among other requirements, the State administrative plan must include an EOP, as described in subparagraph 1-9a(2) and paragraph 2-6;

(2) Administer or supervise the EMA Program through a single State agency in accordance with the FCDA of 1950, as amended, unless the requirement is waived by the FEMA Regional Director (see paragraph 1-9a(1)).

(3) Have a FEMA-approved State EOP that conforms to the definition criteria set forth in 44 CFR, Parts 302.2(p) and 302.3(b). Continuing eligibility is contingent upon the State meeting the EOP exercise requirements contained in subparagraph 2-6(8).

(4) Have a FEMA-approved Annual Submission including a statement of work.

c. Local jurisdictions must meet the following eligibility requirements:

(1) Have a local EOP that conforms to the requirements set forth in paragraph 2-6 and in CPG 1-8, Guide for the Development of State and Local EOP's. The EOP must be approved by the local chief executive or other authorized official and accepted by the Governor or other authorized State official as being consistent with the State's EOP. Continuing eligibility is contingent upon the local jurisdiction meeting the exercise requirements contained in subparagraph 2-6(8);

(2) Have a State-approved statement of work; and

(3) Comply with any other requirements that may be set forth in the State administrative plan.

2-6. EMA Program Activities and Products. There are three core activities included in the EMA Program. They are: development of a multihazard EOP; exercising of the EOP; and the maintenance of the HICA-MYDP.

a. EOP's. Each participating State agency must have a FEMA approved EOP approved by the Regional Director; and each subgrantee must have a local operational plan approved by the local chief executive or other authorized official and accepted by the Governor or other authorized State official as being consistent with the State's operational plans. One goal of the EMA Program is to ensure that a single multihazard EOP is developed in each jurisdiction. The EOP must thoroughly address evacuation, shelter, warning, communication, direction and control, emergency support services, emergency public information, resource management, and other critical emergency management functions. Full attention must be given, in an appendix to a functional annex or by some other means, to the unique characteristics of attack-related and any other hazard that may threaten the jurisdiction.

(1) State or local multihazard EOP's are a part of the State administrative plan by reference only. They are not a physical part of a State's submission.

(2) FEMA provides guidance on planning processes and content, as well as criteria which must be met. These are contained in CPG 1-8. If the EOP is updated, plan content is to be in conformance with CPG 1-8A, Guide for the Review of State and Local EOP's. For those local EOP's that are updated, the States will complete the EOP crosswalk (approved by OMB under control number OMB 3067-0123) in Part II of CPG 1-8A. Copies of the EOP crosswalks are to be submitted to the FEMA regional offices.

(3) States should submit drafts of their EOP's to their FEMA regional offices for review and determination as to their adequacy. States will then be provided suggestions and recommendations before development and final printing of their EOP's.

(4) In determining the acceptability of EOP's as end products under the EMA Program, FEMA will pay particular attention to the validity of the nuclear attack risk assumptions adapted as the planning base for the jurisdiction. Nuclear attack risk assumptions will be taken from FEMA's Nuclear Attack Planning Base (NAPB)-90 unless altered in the planning process with the knowledge and specific approval of the FEMA Regional Director.

(5) In evaluating the nuclear attack population protection strategy, FEMA will insist that the population protection option (evacuation or in-place shelter) selected be consistent with the risk conditions agreed upon by State and Federal authorities. Plans for high risk areas must rely primarily on an evacuation strategy unless it is clearly established in the plan that there is existing shelter in the area adequate to protect people from the blast, fire, and radiation effects which would occur based on the threat identified in NAPB-90 or otherwise agreed upon as the basis for the plan. Plans for high risk areas that rely exclusively on an in-place shelter strategy must identify the existence of blast, fire, and radiation protection adequate to protect the population at risk. Plans for high risk areas that rely primarily on an evacuation strategy should also feature an option for allocation and use of best available nearby shelters for short warning situations. It must be made clear, however, that this is an inferior option that provides relatively low probability of survival in the nuclear attack environment.

(6) State emergency management planners funded by the PPP Program may provide technical assistance and quality control, review, and exercising of EOP's developed by EMA participant jurisdictions if needed.

(7) State RADEF Officers funded by the RADEF Program may provide technical assistance and quality control, review, and exercising of EOP's developed by EMA participant jurisdictions if needed.

(8) All State and local EOP's are to be reviewed and, if necessary, updated and exercised at least every 3 years. Where progress toward meeting this requirement on the part of the jurisdiction is unsatisfactory the following procedures are required:

(a) Regional offices shall serve notice to States to withdraw EMA eligibility or grant an extension not to exceed one year;

(b) State offices will serve notice to local jurisdictions to withdraw EMA eligibility or grant an extension not to exceed one year, and also notify the appropriate regional office of that action; and

(c) Extensions shall specify that reimbursement will be suspended if all minimum requirements are not achieved within one year of the jurisdiction's notification. Any jurisdiction that fails to meet the prescribed criteria will be determined ineligible to receive EMA funds for any subsequent Federal fiscal year, until it has met these criteria.

b. Exercises. Each participating jurisdiction must follow the guidance provided in chapter 13.

c. HICA-MYDP. Each participating jurisdiction must follow the Administrative calendar and guidance memoranda, covering the administration of CPG 1-35. Reference should also be made to subparagraph 2-5a(5) for additional guidance.

2-7. Allocation of Funds.

a. Federal Fiscal Year. Federal funds for FEMA programs are appropriated annually by Congress for the fiscal year extending from October 1 through September 30. States shall request EMA funds for that period.

b. Funding Sequence. Administration of Federal funds in EMA Programs is, generally, in accordance with the following sequential order of events:

- (1) Planning estimate based on the established EMA formula distribution of budgeted funds (see 44 CFR, Part 302.5(b));
- (2) Tentative allocation, if applications precede appropriation;
- (3) Appropriation of Federal funds by Congress;
- (4) Formal allocation of appropriated funds to the States by the Director, FEMA, according to procedures in paragraph 2-7c and 44 CFR Part 302;
- (5) State's request for Federal contributions not to exceed its allocation. This is the Annual Submission to FEMA according to procedures provided in paragraph 2-8. The Annual Submission as approved is part of the CCA agreement between FEMA and the State for its participation and that of its subgrantees;
- (6) Advance of funds to the State by LOC or by cash advance. This may precede the formal allocation but cannot be earlier than October 1 or otherwise precede the availability of Federal funds;
- (7) State claims for authorized expenditures;
- (8) Disbursement of Federal funds to the State in settlement of requests for reimbursements where funds have not been provided by letter of credit and for any amount due in excess of a cash advance;
- (9) Reallocation of available funds; and
- (10) Audit of accounts by the State or FEMA that must be conducted to ensure compliance with Federal, State, and local requirements.

c. Allocations to States. The entire amount of the EMA Program appropriation by Congress for the fiscal year shall be allocated among all the States by the Director, FEMA, in accordance with the factors set forth in 44 CFR, Part 302.5. The allocation made to a State represents the total amount of funds available during the fiscal year to pay the Federal share of allowable emergency management assistance expenses of the State and its participating subdivisions, unless surplus funds from other States are reallocated to increase States with additional needs.

(1) After submittal of the President's budget request to Congress, FEMA headquarters will, for planning purposes, issue the distribution, by State, of 98 percent of the budgeted funds for EMA. This calculation will be by formula, based on Section 205 of the FCDA of 1950, as amended (see 44 CFR, Part 302). A portion of the remaining 2 percent reserve will be distributed to the territories.

(2) The Regional Directors will inform each State and the territories of their estimated share according to the formula distribution and will request State comment.

(3) The formula distribution will be further adjusted by FEMA headquarters following a review and evaluation of each State's requirements and regional office recommendations. The result will constitute the tentative budget allocation. This review and allocation process will consider the current situation of the State.

(4) Upon receipt of the actual appropriation, FEMA headquarters will make a formal allocation for each State that may include a portion of the supplemental amount remaining in the reserve fund.

(5) If and when a State determines it cannot use all of its allocation, it must promptly notify the appropriate FEMA regional office so that the excess funds may be reallocated. Regional Directors will monitor EMA funds and obtain early release of anticipated excesses. Particular emphasis should be placed on monitoring those States with a continuous history of underutilization. Consideration of this underutilization history is accommodated in the allocation process (see 44 CFR, Part 302.5(e)(1)).

d. State Allocations to Eligible Local Governments.

(1) Upon receiving notification of its official allocation of Federal funds for the fiscal year, and after determining State-level needs relative to its local jurisdictions in accordance with the statement required in subparagraph 1-9a(2)(d), the States are to suballocate funds to their local jurisdictions. The sum of the State and specific local jurisdictions' suballocations constitutes the total dollar amount that may be eligible for approval.

(2) States are to consider all areas for funding, giving priority to jurisdictions in the following order:

(a) Existing jurisdictions participating with a substantiated record of accomplishment in emergency management;

(b) Jurisdictions considered more vulnerable to attack or natural or technological disaster;

(c) Jurisdictions expected to support more vulnerable areas, either as reception areas or as primary suppliers of relief and recovery assistance;

(d) Participants or proposed participants that meet FEMA's recommended standards for staffing and other capabilities; and

(e) Jurisdictions able to provide all or part of the non-Federal cost-sharing for the program.

(3) FEMA has established that the suballocation to local governments should be at least two-thirds of the EMA allocations. The actual suballocation within each State is to be determined by the State in accordance with policy and procedures set forth in the State administrative plan, upon consideration of both State and local needs and, to the extent possible, in consultation with the local governments. If that suballocation should total less than two-thirds without adequate justification for the percentage of EMA funds to be retained at the State level, the Regional Director will reject the State's Annual Submission and require amending the State's administrative plan. If a significant number of participating local jurisdictions of the State do not have full-time coordinators, every effort should be made by the State to upgrade the status of local participants to full-time. If State EMA-funded staff are carrying out or substantially supporting special locally oriented projects (i.e., EOP development and exercises), then every effort should be made by the State to provide the EMA funding to the localities to increase local capability to perform local requirements. In order to obtain approval, the State's justification for retaining more than one-third of the EMA allocation must be based on consideration of one or more of the following factors regarding which the Regional Director will require documentation:

(a) The valid funding requests of all eligible local jurisdictions total less than two-thirds of the total State allocation;

(b) The number and population of eligible local jurisdictions in the EMA Program are too small to collectively warrant two-thirds of the total State allocation; and all valid requests from eligible local jurisdictions are being funded at the maximum 50 percent Federal share level; and the State is actually recruiting nonparticipating jurisdictions into the program; and

(c) The State share includes substantial substate management costs (e.g., State, regional, or area offices).

(4) If the State's excessive operating costs result from refusal to apply for funds available from other programs in the CCA, the Regional Director shall deny the request.

2-8. State Application Responsibilities.

a. The State's initial request for Federal funds for a fiscal year is made by including in its SF 424, Part III Budget Information, an amount not to exceed the planning estimate or tentative allocation at the time of its application.

b. After FEMA's issuance of the tentative allocations, a State may provide the Regional Director a preliminary Annual Submission in an amount not to exceed its tentative allocation.

c. An Annual Submission consists of:

- (1) FEMA Form 85-16;
- (2) FEMA Form 85-17;
- (3) Annual statements of work; and

(4) Any amendments to the State administrative plan necessary to reflect current status.

d. After appropriation by Congress and allotment of the funds, FEMA will make a formal allocation for each State that may include an amount from the supplemental portion of the reserve fund.

e. An Annual Submission must be submitted to the appropriate FEMA Regional Director within 60 days after receipt of FEMA formal notice to the State of its allocation of Federal funds for the fiscal year. If a State fails to submit an approvable Annual Submission for the full amount of its formal allocation within 60 days after the date of formal notification from FEMA of its approved official allocation, FEMA may reallocate all or part of the funds among the other States in such amounts as will best assure the adequate civil defense capability of the nation.

f. Approval. FEMA's approval of the Annual Submission and signatures of the FEMA Regional Director and State official on FEMA Form 76-10 constitutes the agreement for that State's participation in the EMA Program for the year covered by the submission. Any supplements to an initial Annual Submission in the same fiscal year must also be approved by the FEMA Regional Director.

(1) If no changes are necessary and if requested in writing by a State, the Regional Director may approve a State's preliminary Annual Submission (if found to meet all requirements in 44 CFR, Part 302 and this chapter) in an amount which does not exceed the amount of the State's formal allocation.

(2) If its preliminary Annual Submission is not designated in writing by the State as its formal Annual Submission and so approved by the Regional Director, the State shall provide to the Regional Director, within 60 days of notification of its formal allocation, a formal Annual Submission.

(3) After the appropriation becomes available an award document obligating Federal funds on the basis of the approved preliminary or formal Annual Submission will be executed in accordance with the provisions of 44 CFR, Part 302.5 and this chapter and CPG 1-32. FEMA Form 76-10, when properly executed and certified by the authorized State official and approved by the FEMA Regional Director, constitutes the obligational document between FEMA and the State. FEMA will assign a number to the form to identify it for accountable transactions connected with it, including any advances.

(4) With regard to any State whose award document was executed pursuant to a preliminary Annual Submission covering only part of its formal allocation, upon approval (by the Regional Director) of the formal Annual Submission (including a revised statement of work supporting the additional funding request) the Regional Director shall execute an amended award document obligating the balance of such State's formal allocation.

g. Amendments. Under certain conditions, States shall, through submittal of a revised FEMA Form 85-16, obtain approval from the FEMA Regional Director on amendments (deviations) to a financial plan previously approved; that is, whenever:

(1) The deviation will result in changes in the scope of the objective of the grant-supported project or program. Transfers of funds among object cost categories need not be submitted as amendments unless they exceed 20 percent of the total State obligation or change the scope or objectives; however, they must be reflected in the State's final report;

(2) The deviation indicates a need for additional Federal funding or a decrease to reflect surplus funds; or

(3) The deviation is one for addition or deletion of political subdivisions.

h. FEMA Form 85-17, Staffing Patterns. As a part of its Annual Submission, the State shall submit FEMA Form 85-17 as follows:

(1) State staffing patterns must show all positions in the State emergency management organization and all other State agency positions for which funds are requested. Each position is to be shown by organization, title, and salary. Positions in the emergency management organization for which no contributions are being requested should be indicated (see limitations in subparagraph 2-10a(2));

(2) Similar staffing patterns for participating local political subdivisions shall also be submitted after the State has approved them;

(3) The position in which authority is vested for everyday direction, supervision, and administration of the applicant's total emergency management program is to be identified in column one of FEMA Form 85-17 as EMERGENCY PROGRAM MANAGER. If a different position title is assigned for local purposes, this must be shown in parentheses, along with EMERGENCY PROGRAM MANAGER. If another official will serve as EMERGENCY PROGRAM MANAGER in certain situations, appropriate clarifying information should be included;

(4) Funds should be requested against the specific positions listed on FEMA Form 85-17, at salary rates consistent with those paid for similar work in other activities of the applicant State or local government. Salary cost must be approved by the State and FEMA Regional Director in accordance with OMB Circular A-87 and other criteria in this chapter. Up-to-date job descriptions clearly describing the specific emergency management duties of each position being funded must be submitted to the FEMA regional office with FEMA Form 85-17. The position descriptions of the EMA-funded professional staff of each jurisdiction should reflect the capability to administer a complete Civil Defense Program; and the position description of each professional staff member (non-clerical) must specify the attack preparedness responsibilities of that position. If a previously submitted job description for a specified position remains unchanged, indication of this in writing will suffice in lieu of a resubmission; and

(5) In reviewing Annual Submissions, training of State and local EPM's and staff will not be considered. However, this activity will be a factor in approving the State statements of work.

2-9. General Criteria Governing EMA Allowable Costs.

a. Among other requirements, to be allowable, costs must be classified according to object classification as follows:

(1) Personnel compensation and benefits;

- (2) Travel and transportation of persons; and
- (3) All other administrative expenses.

b. Costs paid to other elements of the State or local government for materials and services procured by other elements or organizations are not reimbursed as "direct costs" unless charges made to the emergency management agency are consistent with practices for charging other elements of the applicant government. In these cases, the EMA share will be limited to 50 percent of the allowable cost paid by the emergency management agency.

c. In order to be allowable, indirect costs must be covered by an approved cost allocation plan. Salaries and administration expenses of performing audits and other eligible costs that cross program lines for programs under the FCDA, but which are not covered under a cost allocation plan, may be charged under the EMA Program as a direct charge.

d. In-Kind Contributions. The following delineates the application and limitations of in-kind matching within the EMA Program in establishing the value of in-kind contributions from non-Federal third parties. EMA requires a non-Federal share of at least 50 percent. It contains excerpts from and expands upon criteria contained in attachment F of OMB Circular A-102. In-kind contributions do not expand the scope of the program to accommodate items which would not be eligible for matching if purchased for cash by the grantee. Also, the State or political subdivision is not allowed to obtain a Federal contribution for property claimed as received by donation and then turn over all or part of the Federal contribution (or otherwise provide pay) to the person who provided the property. Values for in-kind contributions must conform to the cost principles established in OMB Circular A-87. Additional guidance is contained in CPG 1-32.

(1) Volunteer Services. In-kind matching for volunteer services is not allowable under EMA since the purpose of providing 50 percent Federal matching of personnel salaries and benefits is to provide for staffs of trained, experienced specialists employed on a regular basis at the State and local emergency management organization level.

(2) Valuation of donated expendable personal property.
Attachment F of OMB Circular A-102 states:

"Donated expendable personal property includes such items as expendable equipment, office supplies, laboratory supplies or workshop and classroom supplies. Values assessed to expendable personal property included in the cost or matching share should be reasonable and should not exceed the fair market value of the property at the time of the donation."

(3) Valuation of loaned or donated nonexpendable personal property, and building or use thereof.

(a) One purpose of EMA grants is to support activities that require the use of equipment and buildings on an annual basis. Therefore, depreciation or use charges for equipment and buildings may be made. The full value of donated equipment may be depreciated and fair rental charges for space in buildings and for the use of loaned equipment may be made, provided that FEMA has approved the charges.

(b) The value of donated space shall not exceed the fair rental value of comparable space as established by an independent appraisal of comparable space and facilities in privately owned buildings in the same locality. It is emphasized here that where Federal funds were involved in the construction of a building, no space usage charge or depreciation will be allowed. In an EOC where Federal participation was limited to certain items (e.g., alterations only), the full cost of such items must be deleted in arriving at the in-kind contribution for the space.

(c) Use charges for office space while occupied by the emergency management staff on a day-to-day basis may be eligible.

(d) Equipment loaned or donated to the grantee and provided by the grantee as its in-kind contribution must be specifically dedicated to the administration of the Civil Defense Program. The value of loaned equipment shall not exceed its fair rental value. The value of donated nonexpendable personal property (computed at the time of its donation) shall not exceed the fair market value of like property of the same age and condition. Donated equipment shall be retained and disposed of only with FEMA's prior approval, in accordance with the property standards of attachment N of OMB Circular A-102. For loaned equipment, FEMA must be notified of the termination of the loan. No depreciation or use charges are allowable for Federal donated surplus property, excess property transferred pursuant to the authority of PL 97-380, or federally assisted items.

(4) The following requirements pertain to the grantee's support records of in-kind contributions from non-Federal third parties:

(a) The basis for determining the valuation for materials, equipment, and buildings must be documented; and

(b) Records of the donation and of the value of donated equipment at the time of its donation must be documented, and such documentation must be retained and available for inspection, in accordance with the standards of attachment C, Retention and Custodial Requirements for Records, of OMB Circular A-102.

2-10. Specific Allowable Expenses. The following definitions are used to categorize expenses according to object classifications. Specific limitations are stated in each of the classifications.

a. EMA Personnel Compensation and Benefits.

(1) Definitions. This classification includes gross compensation (before deductions for taxes and other purposes) for services of individuals. In addition to salaries and wages of officers and employees engaged in emergency management activities, it also includes applicant government payments for:

(a) Vacation, sick leave, the emergency management share of terminal leave, and other types of leave time earned while under the EMA Program;

(b) Employee benefits in the form of employer's contributions or expenses for social security (FICA), employee's life and health insurance plans, employment insurance coverage, workmen's compensation insurance, pension plans, emergency management share of severance pay, and similar benefit entitlements. These benefits must be granted under approved official State or local government plans for compensating their employees and distributed equitably to grant programs and other activities. If an incentive award system is in effect, awards for employee suggestions and efficiency are also included; and

(c) General liability insurance for protection of emergency management personnel, as agents of the State or political subdivision, against claims for damages while performing emergency management duties. The extent and cost of insurance coverage must be in accordance with general State or local government policy and sound business practice (see OMB Circular A-87, attachment B, section C.4.b).

(2) Limitations--Emergency Management Agency Staff.

(a) Except as indicated in subparagraph 2-10a(2)(b), Federal contributions for expenses in this classification are limited to personnel compensation and benefits paid to or on behalf of personnel whose paid positions are reported on the applicant's current FEMA-approved Form 85-17. Compensation for emergency management employees must be reasonable in light of services rendered and consistent with payment rates for similar work in other activities of the State or local government. Additional staffing for disaster operations is not authorized for EMA funding.

(b) Personnel will not be funded full-time under EMA, unless they are performing emergency management program elements included and identified in an approved State or local statement of work, are required by such projects and their job description to devote full time to the function, and are specifically approved in the Annual Submission.

(3) EMA Limitations--Personnel of Other Agencies. Personnel compensation and benefits for an employee of a department of the State or local government other than emergency management, including persons serving full-time or part-time as local coordinators of emergency management, are allowable for Federal contributions within certain limitations as discussed below:

(a) To qualify, an acceptable current position description that describes clearly the specific emergency management duties and functions of the employee must be submitted annually as a supplement to the applicant's FEMA Form 85-17. This requirement, for example, could apply to employees' jurisdictions in which emergency management is not a separately identified agency but is administered within another department or agency (such as the Adjutant General's Department or the Department of Public Safety);

(b) In total the various position descriptions should reflect capability to administer a complete Civil Defense Program including attack related preparedness;

(c) The employee must be assigned on a regular continuing basis to emergency management duties under the official personnel system of the particular State or jurisdiction;

(d) FEMA funding is allowable in the case of an individual appointed under an OPM-approved merit system to a part-time position in an emergency management agency, while at the same time holding a separate part-time position in another department or in the private sector provided the duties of that position do not conflict with or impair the emergency management functions assigned to the individual. However only the portion of the costs correspondent to time and effort spent by the employee on emergency management activities, as substantiated by payrolls, supported by time, attendance, or equivalent records for individual employees, is allowable for Federal contributions; and

(e) Salaries paid to persons who are full-time elected officials are not allowable costs for obtaining a contribution (50/50 matching) under FEMA's EMA Program. As to employees of a State or local emergency management agency who also hold a part-time nonpartisan or part-time elective office by appointment to fill a vacancy, their emergency management salaries may be allowable for a 50 percent Federal contribution under the EMA Program, but only if it can be demonstrated that the holding of such elective office does not conflict with or impair performance of the emergency management duties for which the salaries are being paid. Time and attendance records must be kept to demonstrate that the costs charged to emergency management are in line with time and effort spent on emergency management activities.

(f) Officers and employees who hold part-time partisan elective office by appointment to fill a vacancy (or who were hired by the State or local emergency management agency after they had already been elected to their part-time elective office) should be aware of the need to avoid violation of the Hatch Political Activities Act of 1939, as amended. Sections 1501 through 1508 deal with Political Activity of Certain State and Local Employees (5 USC 1501-1508). Under the Hatch Act, an individual employed by a State or local agency, whose principal employment is in connection with an activity which is federally financed in whole or in part by loans or grants, is prohibited from becoming a candidate for public office.

(g) An exception is provided in the case of a non-partisan election. That is, such officer or employee is not prohibited from being a candidate in any election in which none of the candidates is to be nominated or elected as representing a party any of whose candidates for Presidential elector received votes in the last preceding election at which Presidential electors were selected. (See 5 USC 1503.)

(4) Other Limitations. Any payment to a retirement fund must be prorated (on the basis of time worked in a position while it was federally assisted and so reported, under a FEMA-approved EMA Program Staffing Pattern) to be eligible funds for the respective fiscal year and may only be charged while these funds remain available.

b. Travel and Transportation of Persons.

(1) Definitions. This classification includes costs of transportation, per diem allowances and other reimbursable expenses related to travel for personnel in authorized travel status under the State or local government's official travel regulations approved as a part of the State's administrative plan.

(2) EMA Limitations.

(a) Federal contributions are limited to expenditures of a participating State or political subdivision for emergency management travel. Travel must be approved by the EPM or other designated official of the Emergency management agency. Travel must have been performed while in an authorized travel status, as provided in the applicable travel regulations accepted by FEMA as part of the State administrative plan.

(b) Expenditures for travel by elected or appointed officials having supervisory responsibilities for emergency management, but not occupying positions listed on the Staffing Pattern in the FEMA-approved Annual Submission, are allowable (but not to include travel costs incurred to attend meetings and conferences) provided

travel is directly related to emergency management and complies with provisions of the FEMA-accepted travel regulations.

(c) Federal contributions for travel or vehicle allowances, which are paid to emergency management personnel in accordance with applicable FEMA-accepted travel regulations, are limited to actual expenses of authorized official travel. Official travel is to be substantiated by vehicle mileage records, receipts for travel or vehicle operating expenses, or other appropriate documentation.

(d) First-class air accommodations are unallowable, except as provided in OMB Circular A-87.

(e) Air travel by other than common carrier, if a normal practice of the applicant government, is allowable only for emergency management personnel on authorized emergency management travel. Allowable costs shall not exceed common carrier coach fare.

(f) For the purposes of funding travel costs, the person's duty station shall be the location specified under the terms of employment.

c. All Other Allowable EMA Administrative Expenses.

(1) Definitions. This classification includes allowable costs for supplies, services, and equipment needed for the administration of emergency management. These costs must be approved under the principles and standards in OMB Circular A-87. The "All Other" classification does include, but is not limited to:

(a) Administrative office and emergency management training equipment, including audio visual equipment;

(b) Operation and repair of administrative equipment, including that obtained through loan or donation;

(c) Rent, repairs, and alterations to buildings for administrative office space;

(d) State and local newsletter and publications;

(e) Utility costs, including service call charges, telephone directory charges, and environmental or other surcharges; and

(f) Janitorial and custodial services.

(2) Rent, Maintenance, and Utility Service Charges.

(a) Federal contributions for rent, or for charges made in lieu of rent, may not exceed 50 percent of prevailing rental

June 2, 1987

rates for comparable space in privately owned buildings in the community. If the participating emergency management agency has an EOC, the emergency management staff should be located there for day-to-day administration of the program at no charge to FEMA for the space. If the EOC space is not used, then FEMA should not be charged for utilization of other space.

(b) Payments for rent (or maintenance and utility charges made in lieu of rent) for space occupied by an emergency management agency in a building owned by a State or local government or instrumentality thereof are allowable for Federal contributions at rates approved by the Regional Director as meeting OMB Circular A-87 criteria.

(c) Charges for space in a building constructed wholly or in part with Federal financing are not allowable if the charge is based on costs associated with the capital investment for which Federal funds have already been provided. Rental charges for emergency management office space leased from the Federal Government do not require prior FEMA approval.

(d) Rent paid for temporary possession or use of vehicles utilized solely in administration of the emergency management program is allowable. However, vehicles must be rented from an established firm or organization regularly engaged in the business of renting motor vehicles, and the rental payments must be in accord with the terms of a written contract. Rates must be reasonable and comparable to rates available elsewhere in the area. Rent-purchase contract costs for vehicles are not allowable under the EMA Program.

(e) Car rental costs paid to government motor pools are allowable provided the charges are based on experience rates, are fixed to recover costs, and so doing constitutes a normal practice of the applicant government.

(f) Expenses for janitorial and custodial services are allowable, but are limited to housekeeping and maintenance costs of space occupied by personnel engaged in the administration of the emergency management program.

(g) Recurring land line charges and equipment rental costs associated with emergency communications (including telephones) and warning systems are allowable.

(3) Insurance and Indemnification.

(a) Federal contributions for insurance costs are limited to payments for: liability insurance covering emergency management administrative facilities, vehicles, and equipment; general

liability insurance required for protection of the State or political subdivision; and insurance covering administrative emergency management facilities, vehicles, and equipment for damages caused by fire, theft, and collision, as well as water, wind, rain, snow, hail, and other natural causes; errors and omissions insurance whereby, if after an audit, any EMA expenditures by participating State and local jurisdictions are disallowed, the insurance carrier reimburses the Federal Government for the loss.

(b) Within the limitation expressed in subparagraph 2-10c(4)(a), contributions to a self-insurance program reserve are allowable to the extent that the type of coverage, scope of coverage, and the rates and premiums would have been purchased to cover risks.

(c) Federal contributions for insurance premiums are limited to the pro rata share of premiums paid for coverage during the current Federal fiscal year.

(d) Actual losses which could have been covered by acceptable insurance (through an approved self-insurance program or otherwise) are unallowable unless expressly provided for in the grant agreement.

(e) Reimbursement is allowable for payment of workmen's compensation claims paid in accordance with State law in each fiscal year, but only if specifically approved in the grant agreement. Reimbursement is limited to an amount not exceeding the rates and premiums for comparable insurance protection from commercial insurance companies. Reimbursement applies only to emergency management positions on the FEMA-approved FEMA Form 85-17 for the fiscal year.

(f) Costs of insurance for loaned or donated items are unallowable.

(4) Meetings and Conferences.

(a) Federal contributions for costs of attending meetings and conferences are limited to expenditures of the participating State or political subdivision for emergency management personnel occupying positions on the applicable FEMA Form 85-17 approved by FEMA as part of the Annual Submission.

(b) Costs are allowable when the primary purpose of the meeting is dissemination or exchange of technical information relating to emergency management.

(5) Equipment.

(a) Mobile and Portable Communications Equipment. Federal contributions for mobile and portable communications equipment are limited to costs of equipment required for day-to-day emergency management business of emergency management agency personnel. Personnel must occupy positions listed on the current FEMA-approved FEMA Form 85-17.

(b) Administrative Equipment. Federal contributions for administrative equipment are limited to costs of office machines, furniture, and items of office equipment, including audio visual, required for administration and operation of the emergency management office, and to costs of training equipment and supplies for use by emergency management personnel in training other governmental personnel and volunteers with emergency responsibilities.

(c) Automatic Data Processing (ADP) Equipment. Contributions for automated data processing equipment and software at State and local levels are limited to the pro rata share of the ADP support of emergency management activities. Requests for contributions for purchase or rental of ADP equipment or related devices must have prior approval of the FEMA Regional Director in accordance with OMB Circular A-87.

(d) Lease-Purchase Agreements. FEMA will fund an amount no greater than the fair market rental fees of the item, and obligation of funds may not exceed the total for the fiscal year.

2-11. Specific Unallowable Expenses.

a. Expenditures which do not meet the criteria set forth in this chapter and OMB Circular A-87 are unallowable for the purposes of the EMA Program.

b. Unallowable expenditures include, but are not limited to:

(1) Costs that are not necessary and essential emergency management expenses;

(2) Memberships in civic, business, technical, and professional organizations, except as allowed in accordance with OMB Circular A-87. If membership dues are billed in the name of a person holding a position on the approved Staffing Pattern of the EMA participating State or political subdivision, and the billing is paid for by a check drawn against the treasury of the State or political subdivision, the membership can be considered an agency membership under OMB Circular A-87. If the organization carries the membership under the name of the person holding the position and refuses to transfer it to his or her successor, the EMA participant shall remit any portion of the Federal contribution received that is allocable to the unexpired portion of the membership;

- (3) Rent for space in federally funded EOC's;
- (4) Rent, or charges in lieu of rent, for space not used in day-to-day administration of the emergency management program;
- (5) Rent, or charges in lieu of rent, for space occupied by employees assigned from other departments of the State or local government for full-time or part-time emergency management duties, when these personnel are located elsewhere than in the emergency management administrative office. However, such charges may be included as part of indirect costs approved for contributions under OMB Circular A-87;
- (6) Expenditures for purchase or construction of buildings;
- (7) Expenditures for purchase of vehicles;
- (8) All costs otherwise eligible for Federal financial contributions under other chapters of this CPG, except administrative expenses incurred in conduct of normal emergency management activities and not otherwise part of an approved application. For example, costs of emergency communications equipment for use in an EOC are eligible under the EOC Program and therefore are not to be charged to the EMA Program. This is true even though the EMA staff may occupy the EOC on a day-to-day basis, and the costs of administrative communications equipment, such as telephones used by the EMA staff, are eligible under the EMA Program.
- (9) Costs of acquisition, transportation, installation, or rehabilitation of property obtained by donation from a Federal source under the Federal Property and Administrative Services Act or other Federal authority;
- (10) Costs of liability insurance, accident or health benefits insurance, workmen's compensation, and other personnel benefits for volunteer and emergency workers;
- (11) Prepayments, except for normal amounts for subscriptions to periodicals, rent, utility charges, and insurance premiums. Any billing that contains a claim for prepayment for more than 12 months, except for those cited in the previous sentence, must be prorated to charge the appropriate fiscal year funds in which the costs were incurred;
- (12) Interest on borrowings (however represented), bond discounts, costs of financing and refinancing operations, and related legal and professional fees;
- (13) Bad-debt losses arising from uncontrollable accounts and other claims, and related costs;

(14) Contributions to a contingency reserve or any similar provision for unforeseen events (except as allowed in subparagraph 2-10c(3));

(15) Expenditures for entertainment, including amusements, social activities, and related incidental costs such as meals, beverages, lodging, rentals, transportation, and gratuities;

(16) Fines and penalties, including costs resulting from violations of or failure to comply with Federal, State, and local laws and regulations;

(17) Costs related to moving shelter stocks and supplies, except personnel compensation and benefits and travel expenses for regular emergency management personnel occupying positions on the grantee's current approved FEMA Form 85-17;

(18) Expenditures for purchase of equipment, except administrative equipment allowable under subparagraph 2-10c;

(19) Costs of promotional advertising for emergency management;

(20) Costs of convict labor, including compensation, gratuities, meals, or other benefits for prisoners;

(21) Personnel compensation and benefits for performance of work for which the individual receives other compensation from Federal funds;

(22) Compensation and costs of personnel benefits for a person serving as emergency program manager concurrent with the duties of another office or official position (i.e., ex officio);

(23) Salaries and expenses of the Office of the Governor or chief executive of a political subdivision. These are considered costs of general State or local government;

(24) Salaries and other expenses of members of the State legislature or similar government bodies such as the board of county supervisors, the city council, school board, etc., whether incurred for the purpose of legislation or executive direction;

(25) Any portion of compensation or benefits for dispatchers, communicators, or other personnel who are required to be on assigned duty shifts at specific locations to perform police, fire, or other governmental functions, even though some functions related solely to emergency management are performed during these periods;

(26) Costs of operation of equipment except for emergency management administrative use;

(27) Actual losses that could have been covered by permissible insurance, through an approved self-insurance program or otherwise, and losses with regard to property on loan from, or donated by, the Federal government;

(28) Travel and per diem expenses for students attending schools operated by FEMA;

(29) Salaries of elected officials, or appointees to fill a vacancy in an elective office, or employees who hold part-time partisan elective office;

(30) Costs eligible under another Federal program, even if only partially recovered thereunder, unless specifically allowable under Federal law for financial assistance under more than one Federal matching-fund program; and

(31) Contributions and donations.