

NEW YORK STATE ADMINISTRATIVE PLAN FOR PUBLIC ASSISTANCE



**Homeland Security
and Emergency Services**

**NEW YORK STATE DIVISION OF
HOMELAND SECURITY AND EMERGENCY
SERVICES (NYS DHSES)**

JANUARY 1, 2023 - December 31, 2023

**NEW YORK STATE
ADMINISTRATIVE PLAN FOR PUBLIC ASSISTANCE**

ADMINISTRATIVE PLAN 2023 January 1 – December 31, 2023

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I. PURPOSE

The purpose of the Public Assistance (PA) Administrative Plan is to set forth authorities, policies, procedures, and organization New York State (State) will use to request and administer grants under the Federal Public Assistance Program in the event of a disaster within the State.

The PA Administrative Plan defines the procedures for the delivery of Federal financial assistance to State agencies, local governments, certain private, non-profit organizations, and Native American Tribal Organizations (Applicants) and defines the roles and responsibilities of the Federal Emergency Management Agency (FEMA), New York State's Division of Homeland Security and Emergency Services (DHSES), and the Applicants. The plan also assists those entities that are affected by any such disaster with the implementation of FEMA's Public Assistance Program.

DHSES is established in Articles 26 and 2-B of New York State Executive Law as the State's Agency responsible for the coordination of disaster preparedness, response, and recovery for New York State. DHSES is authorized to prepare a comprehensive plan and program for emergency preparedness, response and recovery, institute training and public information programs, make studies and surveys of State emergency management capabilities, and develop and enter into mutual aid agreements with State or political subdivisions. Also, the Division is to cooperate with governmental and nongovernmental agencies; accept facilities, supplies and funding from the federal government; and use resources of existing State agencies.

After a major disaster declared by the President of the United States, the Governor will designate the Governor's Authorized Representative (GAR) as the official responsible for administration of the Public Assistance Program. The GAR, through the State Public Assistance Officer (SPAO), is responsible for providing technical guidance and assistance to Applicants during the recovery period and throughout the duration of each disaster contract. The guidance, assistance, and program management provided shall be sufficient to ensure Grantee (NYS DHSES) and Applicant compliance with the FEMA-State Agreement, the Stafford Act, and implementing regulations pertaining to a declared disaster. The SPAO is responsible for implementation of the PA Program.

The State shall comply with all applicable Federal statutes and regulations in effect during the periods for which it receives grant funding, including those listed under Section II below. The State's disaster response and recovery efforts shall be conducted in an equitable manner. The State acknowledges that funding under the FEMA PA Program is conditional upon the State's compliance with all the terms and conditions of this plan. The PA Administrative Plan will be incorporated as an attachment to the New York State Comprehensive Emergency Management Plan, in compliance with 44 CFR §206.207(b)(4).

The performance period for this PA Administrative Plan is January 1, 2023, through December 31, 2023.

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II. AUTHORITY

New York State Laws and Regulations:

- New York State Executive Law, Article 2-B
- New York State Executive Law, Article 26
- New York State Finance Law
- New York State Comprehensive Emergency Management Plan
- New York State Environmental Quality Review Act (SEQRA)

Federal Laws and Regulations:

- Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. § 5121-5206, Public Law 93-288, as amended by Public Law 100-707
- 44 CFR Part 206
- 44 CFR Part 207
- 44 CFR Part 9, Floodplain Management and Protection of Wetlands
- 44 CFR Part 10, Environmental Considerations
- 44 CFR Part 11, Claims
- 44 CFR Part 13, Grants and Cooperative Agreements with State and Local Governments (Common Rule)
- 44 CFR Part 14, Administration of Grants, Audits of State and Local Governments
- 44 CFR Subchapter B, Insurance and Hazard Mitigation National Eligibility Criteria
- 2 CFR, Part 200
- 2 CFR, Part 215
- 2 CFR, Part 220
- 2 CFR, Part 225
- 2 CFR, Part 230
- OMB Circular A-102
- OMB Circular A-110
- OMB Circular A-133
- OMB Circular A-21
- OMB Circular A-87
- OMB Circular A-122
- Executive Order 11988, Floodplain Management
- Executive Order 11990, Protection of Wetlands
- Executive Order 12612, Federalism
- Executive Order 12699 Seismic Design

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- Executive Order 12898, Environmental Justice
- Executive Order 14008, Justice40
- 16 U.S.C. § 3501, Coastal Barrier Resources Act
- 16 U.S.C. § 470, National Historic Preservation Act
- 16 U.S.C. § 1531, Endangered Species Act References
- 16 U.S.C. § 1451-1465, Coastal Zone Management Act
- 42 U.S.C. § 4321, National Environmental Policy Act

The Grantee and any Applicant shall comply with the applicable Administrative Requirements, Cost Principles, and Audit Requirements. A non-exclusive list of regulations commonly applicable to FEMA grants are listed below:

- Administrative Requirements
 - 2 CFR, Part 200, Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards
 - 44 CFR, Part 13, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments (OMB Circular A-102)
 - 44 CFR, Part 206, Subpart G, Public Assistance Project Administration
 - 2 CFR, Part 215, Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations (OMB Circular A-110)
- Cost Principles
 - 2 CFR, Part 200 Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards
 - 2 CFR, Part 225, Cost Principles for State, Local, and Indian Tribal Governments (OMB Circular A-87)
 - 2 CFR, Part 220, Cost Principles for Educational Institutions (OMB Circular A-21)
 - 2 CFR, Part 230, Cost Principles for Nonprofit Organizations (OMB Circular A-122)
 - Federal Acquisition Regulations (FAR), Part 31.2 Contract Cost Principles and Procedures, Contracts with Commercial Organizations
- Audit Requirements
 - 2 CFR, Part 200 Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards
 - OMB, Circular A-133, Audits of States, Local Governments, and Nonprofit Organizations
 - 44 CFR, Part 206.207 Administrative and audit requirements

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III. DEFINITIONS

Accountant – A person qualified to assist NYS DHSES perform professional accounting work in support of Public Assistance programs.

Alternate Governor's Authorized Representative (AGAR) – A person designated by the Governor or GAR to coordinate State disaster assistance efforts with the Federal Government and execute all necessary documents for disaster assistance programs on behalf of the State and other local grant recipients when the GAR is unavailable.

Alternate Project – An Applicant may apply to use eligible funds for an Alternate Project when it is determined that the public welfare would not be best served by restoring a damaged facility or its function. (An Alternate Project must be in compliance with the Stafford Act §406 (c)(1), 44CFR §206.203 (d)(2)), and Public Assistance Program and Policy.

Appeal – A request for reconsideration of a determination on any action related to Federal assistance under the Stafford Act and these regulations. Specific procedures for appeals are contained in the relevant subparts of these regulations.

Applicant – A State agency, local government, or eligible private nonprofit organization, as identified in Subpart H of regulation, submitting an application to the recipient for assistance under the State's grant. (Also referred to as the Sub-Recipient).

Applicant's Agent - An Applicant's Chief Elected Official will be required to designate an Agent who will be the Applicant's point-of-contact for all matters pertaining to its application for federal assistance.

Applicant Briefing – Meetings to provide application procedures, program eligibility guidance and program deadlines to potential Applicants.

Consolidated Resource Center (CRC) – CRCs are permanent FEMA offices where subject matter experts and specialized resources provide support to all PA operations. CRC responsibilities include project scoping, costing, validation, and compliance reviews.

Deputy State Coordinating Officer (DSCO) – A person designated by the Governor to assist in program-related matters.

Disaster Assistance Manager (DAM) – NYS DHSES staff member assigned as the liaison for disaster related information between the Grantee/Applicant and FEMA through programmatic closure of a declaration. Supervises DAM/DAO Team.

Disaster Assistance Officer (DAO) – NYS DHSES staff member assigned to assist the DAM in programmatic management of assigned declarations.

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Disaster Assistance Representative (DAR) – NYS DHSES temporary employee or contract hire assigned to assist an Applicant in coordination with FEMA staff; and help document eligible disaster-related damages, develop scopes of work, estimate costs, evaluate special considerations, validate the completion of repair/replacement work, and ensure that all eligible costs have been documented and reimbursed.

Documentation - The process of establishing and maintaining accurate records of events and expenditures related to an applicant's FEMA eligible recovery work.

Educational Facilities – (1) Any elementary school as defined by section 801(c) of the Elementary and Secondary Education Act of 1965; or (2) Any secondary school as defined by section 801(h) of the Elementary and Secondary Education Act of 1965; or (3) Any institution of higher education as defined by section 1201 of the Higher Education Act of 1965.

Emergency Work – Work which must be done immediately to save lives and to protect improved property and public health and safety, or to avert or lessen the threat of a major disaster.

Emergency Protective Measures – An action taken by a community before, during, and after an incident to save lives, protect public health and safety, and prevent damage to improved public and private property.

Facility – means any publicly or privately owned building, works, system, or equipment, built or manufactured, or an improved and maintained natural feature. Land used for agricultural purposes is not a facility.

Federal Coordinating Officer (FCO) - Federal Coordinating Officer (FCO): The person appointed by the Administrator, or in their absence, the Deputy Administrator, to coordinate Federal assistance in an emergency or a major disaster.

FEMA-State Agreement – A formal legal document stating the understandings, commitments, and binding conditions for assistance applicable as the result of the major disaster or emergency declared by the President.

Federal Emergency Management Agency (FEMA) – The Federal Agency responsible for coordination of disaster recovery efforts.

Force Account – The Applicant's own labor forces and equipment.

Grant – An award of financial assistance to the State; the Grant award shall be based on the total eligible federal share of all approved projects.

Grantee – The Grantee is New York State (the State, also referred to as the Recipient). The Grantee is accountable for the use of the funds provided by FEMA and is responsible for disbursing those funds to the applicants). The Grantee is also responsible for providing technical advice and assistance to eligible Applicants, undertaking reasonable efforts to make potential Applicants aware of the available assistance programs, providing support for damage

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assessment operations, supporting project identification activities (including large and small project identification and validation of small projects), and submitting the necessary paperwork for Grant awards.

Grants Manager – FEMA’s database utilized for processing Applicant projects.

Grants Portal – The web-based portal through which the State and Applicants access information contained in Grants Manager.

Governor’s Authorized Representative (GAR) – The person empowered by the Governor to execute, on behalf of the State, all necessary documents for disaster assistance.

Hazard Mitigation Grant Program, Section 404 – Hazard Mitigation is action taken to reduce or eliminate long-term risk to people and property from natural hazards and their effects. One type of hazard mitigation funding provided for in the Stafford Act, Section 404, is the Hazard Mitigation Grant Program (HMGP). HMGP funding is available after disasters but is not under the jurisdiction of the Public Assistance Program. Program grant funds available under Section 404 of the Stafford Act provide states with the incentive and capability to implement mitigation measures that previously may have been infeasible. The main purpose of the HMGP is to ensure that the opportunity to take critical mitigation measures to protect life and property from future disasters is not lost during the recovery and reconstruction process following a disaster. In the HMGP Program, measures are proposed that may involve facilities other than those damaged by the disaster, new facilities or even non-structural measures such as development of floodplain management regulations.

Hazard Mitigation, Section 406 – Mitigation measures that must be directly part of the reconstructed work on a facility or will protect or benefit the repaired portion of the facility. They are different from mitigation measures that are considered for eligibility under the Hazard Mitigation Grant Program (HMGP) of Section 404 of the Stafford Act. 406 Mitigation measures apply only to the actual components damaged by the declared event and must protect against a similar future event.

Immediate Needs Funding (INF) – An advance of grant funds by FEMA, not to exceed 50% of the Preliminary Damage Assessment (PDA) estimate, to assist with payment of emergency work within the first 60 days after a declared disaster occurs. INF is intended to meet an Applicant’s urgent needs in the initial aftermath of a disaster. Upon request by the State, FEMA can provide these funds for work an Applicant must perform immediately and pay for within the first 60 days after the disaster declaration. The funding is available for emergency work only; it cannot be used to complete permanent repairs. Eligible activities typically include debris removal and emergency protective measures. The funding may be used to cover such costs as overtime payroll, equipment costs, materials purchases, and contracts when these costs are incurred for emergency work. FEMA identifies potential immediate needs during the PDA.

Immediate Threat – The threat of additional damage or destruction from an event which can reasonably be expected to occur within five years.

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Improved Project – If FEMA approves an Improved Project for a facility for which it also approved temporary relocation of the services to a temporary facility, the temporary facility is only eligible for PA funding for the estimated amount of time necessary to restore the facility to its pre-disaster design and function. If the actual time to restore the facility with the improvements extends beyond this timeframe and causes the Applicant to continue its use of the temporary facility, FEMA does not reimburse any cost associated with that continued use. However, FEMA may reimburse costs associated with relocating its services back into the facility as part of the approved temporary facility project.

Improved Property – A structure, facility or item of equipment which was built, constructed or manufactured. Land used for agricultural purposes is not improved property.

Joint Field Office (JFO) – A temporary facility established in a disaster area to serve as the field office for FEMA, other federal, and State recovery personnel, and as the focal point for disaster operations, direction, coordination and information.

Joint Field Office Liaison – NYS DHSES staff member assigned to a JFO as the State liaison for the disaster operation during the recovery effort while the JFO is open.

Large Project – A project for which the final obligated (Federal and non-Federal) amount is equal to or greater than the annually adjusted cost threshold for small project grants.

Large Project Threshold – A cost threshold that changes annually. The threshold is updated at the beginning of each fiscal year and published in the Federal Register. Effective August 3, 2022, the threshold is set at \$1,000,000 and for projects not yet obligated as of August 3, 2022 for federal disasters declared on or after March 13, 2020. If the estimated cost of a project is at or greater than this threshold, it is a large project; if the estimated cost is lower than the threshold it is a small project.

Table 1: Large Project Threshold by Open NY Disaster Declarations

Disaster	Status	Threshold
4020	Open	\$63,900.00
4031	Open	\$63,900.00
4085	Open	\$67,500.00
4129	Open	\$67,500.00
4180	Open	\$120,000.00
4322	Open	\$123,100.00
4348	Open	\$125,500.00
4397	Open	\$128,900.00
4472	Open	\$131,100.00
4480	Open	\$1,000,000.00
4567	Open	\$1,000,000.00
4615	Open	\$1,000,000.00
4625	Open	\$1,000,000.00
3589	Open	\$1,000,000.00
3590	Open	\$1,000,000.00
4694	Open	\$1,000,000.00

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National Flood Insurance Program (NFIP) – The program authorized by the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4001 et seq. The NFIP is a Federal program enabling property owners in participating communities to purchase insurance as a protection against flood losses in exchange for State and community floodplain management regulations that reduce future flood damages. Participation in the NFIP is based on an agreement between communities and the Federal Government. If a community adopts and enforces a floodplain management ordinance to reduce future flood risk to new construction in floodplains, the Federal Government will make flood insurance available within the community as a financial protection against flood losses. This insurance is designed to provide an insurance alternative to disaster assistance to reduce the escalating costs of repairing damage to buildings and their contents caused by floods.

Permanent Work – Restorative work that must be performed through repairs or replacement, to restore an eligible facility on the basis of its predisaster design and current applicable standards. FEMA PA Categories C through G are referred to as Permanent Work.

Pre-Disaster Design, Function and Capacity – The size or capacity of a facility as originally designed and constructed or subsequently modified by changes or additions to the original design. It does not mean the capacity of the facility at the time the major disaster occurred if different from the most recent designed capacity.

Preliminary Damage Assessment (PDA) – When the State determines that an incident may exceed capabilities to respond, it requests a joint Preliminary Damage Assessment (PDA) with FEMA. Officials work together to estimate and document the impact and magnitude of the incident. Accurate and comprehensive PDAs are critical to enabling efficient response and recovery. The Preliminary Damage Assessment is a joint venture by FEMA, the State (Grantee), and Applicants to document the impact and magnitude of the disaster on individuals, families, businesses, and property and to gather information for disaster management purposes. The Governor will use the information gathered during the PDA process to determine whether Federal assistance should be requested. This information forms the basis for the disaster declaration. The PDA is conducted once the State determines that the recovery effort may be beyond State and local capabilities and has validated the damages.

Private Nonprofit (PNP) Applicant – Any nongovernmental agency or entity Applicant that currently has: (1) An effective ruling letter from the U.S. Internal Revenue Service, granting tax exemption under sections 501(c), (d), or (e) of the Internal Revenue Code of 1954, or (2) Satisfactory evidence from the State that the nonrevenue producing organization or entity is a nonprofit one organized or doing business under State law.

Program Delivery Manager (PDMG) - Federal Employee or FEMA-approved staff assigned as a customer service manager who works with the Applicant to resolve disaster-related needs and ensure that the Applicant's projects are processed as efficiently and expeditiously as possible.

Project – A Project is a logical grouping of work required as a result of the declared major disaster or emergency. The scope of work and cost estimate for a project are documented on a Project

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Worksheet (FEMA Form 90–91) or the Project Report in Grants Portal (for projects prior to FY 2018). The State and FEMA must approve a scope of eligible work and an itemized cost estimate before funding a project. A project may include eligible work at several sites.

Project Worksheet (PW)– Form used to document the scope of work and cost estimate for a project. For the purposes of this plan, Project Worksheet is synonymous with the Project Report in Grants Portal. Since FY2018, Grants Portal has been the system in use for PA activities. However, there is still PA work underway that pre-dates that transition. The State understands that eventually FEMA will be moving away from Project Worksheets and instead using Project Reports. For the purposes of this plan, the State acknowledge there are different documents that convey the same information.

Recovery Scoping Meeting - A Recovery Scoping Meeting is scheduled following the Applicant Briefing to provide the Applicant with specific information to meet requirements of the Public Assistance Program. The Recovery Scoping Meeting is conducted by FEMA with assistance from the State DAR and is established to provide a detailed review of the PA Program and the Applicant's needs. Discussion includes Special Considerations, such as insurance, hazard mitigation opportunities, and compliance with environmental and historic preservation laws, including floodplain management issues, that could potentially affect the type and amount of assistance available, and the documentation needed. If any Special Considerations issues are anticipated, the appropriate Technical Specialist (Specialist) should be invited to attend the meeting. During this meeting the FEMA advises the Applicant what records must be kept; reviews cost estimating procedures; and explains project formulation and the project validation process.

Small Project – A project for which the final obligated (Federal and non-Federal) amount is less than the cost threshold for large project grants. Small Projects may be funded using an initial estimate of costs. The advantage of this process is that processing of the grant is expedited; funds are available as soon as the Project Worksheet is approved rather than requiring the Applicant to submit documentation of actual costs.

Special Considerations – The term to describe issues other than program eligibility that could affect the scope of work and funding for a project. This may include insurance, hazard mitigation measures, and environmental and historic preservation compliance with federal laws, federal regulations, and federal Executive Orders.

Stafford Act – The Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. §5121 et seq. as amended, authorizes financial and other forms of assistance to State and local governments and certain Private Nonprofit organizations to support response, recovery, and mitigation efforts following major disasters and emergencies declared by the President of the United States. The Stafford Act describes the declaration process, the types and extent of assistance that may be provided, and fundamental eligibility requirements.

Standards – Codes, specifications or standards required for the construction of facilities include all legal requirements for any additional features such as improvements to pre-disaster design function and capacity required by mandatory standards, codes or specifications. Such standards may be different, from the initial pre-disaster design, function, and capacity, for new construction

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and/or repair work. This may include guidance produced by nationally recognized industrial associations (e.g. National Electrical Manufacturers Association) routinely used by construction, engineering and manufacturing firms. FEMA policy FP-104-009-11 Version 2.1 effective 11/6/19 requires the mandatory application of consensus-based codes, specifications and standards for repairs to buildings, electric power facilities, roads and bridges, potable water facilities and wastewater facilities.

State Coordinating Officer (SCO) - The person appointed by the Governor to act in cooperation with the Federal Coordinating Officer to administer disaster recovery efforts.

State Deputy Public Assistance Officer (SDPAO) – A person to assist the State PAO with previously noted responsibilities and act on behalf of the State PAO in their absence to fulfill program requirements.

State Program Disaster Assistance Representative (PDAR) – DAR assigned as a customer service manager who is partnered with the FEMA PDMG to work with the Applicant to resolve disaster-related needs and ensure that the Applicant's projects are developed as efficiently and expeditiously as possible.

State Public Assistance Officer (State PAO) – The State official specifically responsible for coordinating with the FEMA PA Group Supervisor in administering the PA Program: organizes, supervises and directs the State PA team in all aspects of the disaster; advises on PA laws, regulations, policies, and eligibility criteria; and provides status reports to DHSES Recovery leadership.

Strategic Funds Management (SFM) – Strategic Funds Management is a process for obligating Public Assistance project funding based on an Applicant's schedule to execute the eligible work. NYS DHSES and the Applicant will determine if SFM will be applied to a project.

Sub-Recipient – The government or other legal entity to which a subgrant is awarded and which is accountable to the recipient for the use of the funds provided. Sub-recipient may also be referred to as the Applicant or subgrantee.

Technical Specialist – FEMA or State staff with specific skill sets and knowledge applicable to complex technical projects.

Validation – The process of determining compliance with all applicable laws, regulations, and policies associated with a subgrant application.

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IV. ORGANIZATION AND RESPONSIBILITIES

When a State, Territorial, or Tribal (SLTT) government determines that an incident may exceed SLTT capabilities to respond, it requests a joint Preliminary Damage Assessment (PDA) with FEMA. Federal, SLTT government, and certain PNP organization officials work together to estimate and document the impact and magnitude of the incident. If it is evident that the situation is or will be beyond the combined capabilities of the State and local resources, the Governor may request that the President of the United States declare, under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, Public Law 93-288, (the Stafford Act), that an emergency or major disaster exists in New York State.

Federal assistance following disasters is coordinated by FEMA. The Stafford Act authorizes supplemental assistance to help states recover from disasters as quickly as possible. FEMA and the State enter into an agreement (FEMA-State Agreement) for each disaster declared by the President.

NYS DHSES is the State office responsible for managing and administering the Public Assistance Program. These responsibilities include, but are not limited to the following:

- Directing, controlling, coordinating, and supervising damage assessment operations for the State and its political subdivisions
- Assembling a group to develop damage assessment strategies as the situation warrants
- Administering and supervising the PA Program and PA Finance Unit
- Publicizing the availability of the PA Program
- Complying with Federal and State program and grant administrative requirements
- Coordinating, scheduling, and conducting Applicant Briefings
- Assisting in the selection of Joint Field Office (JFO)
- Attending Recovery Scoping Meetings (RSM)
- Submitting the Request for Public Assistance (RPA) forms to FEMA
- Notifying Applicants of project documentation requirements
- Requesting INFs on behalf of Applicants as applicable
- Hiring and training temporary employees or contract staff as necessary
- Assisting in determination of Applicant's eligibility
- Disbursing federal funds
- Maintaining financial records and accountability
- Monitoring subgrants by conducting quarterly reviews, site inspections as required
- Processing and submission of Incident, Program and Financial Reports
- Processing of Appeals and Time Extensions
- Reviewing and approving of Improved Projects
- Reviewing and coordinating of FEMA approval of Alternate Projects
- Reviewing Projects/PWs for accuracy, completeness, and hazard mitigation opportunities
- Assisting in identification and formulation of internal and external disaster specific guidance

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- Coordinating of known insurance settlement allocations; submission of insurance commitment forms
- Conducting final inspection and request closeout of open large projects
- Requesting close out of disaster grants
- Participating in Recovery Transition Meetings (RTM) with FEMA and Applicants

To manage the Public Assistance Program, NYS DHSES further identifies and establishes staffing requirements necessary to assist FEMA and Applicants with proper program and financial support.

DHSES is the State agency legally responsible to coordinate federal assistance under the Stafford Act, and, as such, is responsible for the management and administration of the Public Assistance Program. This includes determining staffing levels and budgeting.

SCO/DSCO responsibilities include but are not limited to:

- Supervise the State's part of JFO operations
- Coordinate State public information activities

SPAO responsibilities include, but are not limited to:

- Assist with the review of Initial Damage Assessment reports
- Implement all program requirements on behalf of the GAR
- Train and supervise State Staff assigned to PA
- Schedule and conduct Applicant Briefings
- Assist FEMA in determining Applicant's eligibility
- Ensure technical assistance, guidance, and training are provided to Applicants
- Oversee the daily operation of the PA Program
- Prepare documents required for Grant Award
- Report un-inspected damages to the FEMA PA Staff
- Make eligibility recommendations to the FEMA PA Staff
- Review and recommend time extensions/project scope changes to GAR
- Prepare requests to FEMA for GAR for time extensions/project scope changes
- Evaluate cost overruns and recommend action to FEMA PA Staff
- Respond to requests for project inspections (supplemental, interim, and final)
- Complete program closure requirements
- Identify need for and the source of additional staff
- Serve as liaison with the FEMA Public Assistance Branch

Disaster Assistance Managers (DAM), Disaster Assistance Officers (DAO), Disaster Assistance Representatives (DAR) – Qualified state personnel to assist with:

- Assessing damages
- Assisting FEMA and Applicants with preparation and review of projects/PWs

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- Conducting joint field inspections when necessary
- Providing other Public Assistance program administrative support services as needed

V. DIRECTION, CONTROL AND ADMINISTRATION

1. Public Assistance Grant Program

The objective of the FEMA's PA Grant Program is to provide assistance to State, Tribal and local governments, and eligible Private Non-Profit (PNP) organizations so communities can quickly respond to and recover from major disasters or emergencies declared by the President. Through the PA Program, FEMA provides supplemental Federal disaster grant assistance for debris removal, emergency protective measures, and the repair, replacement, or restoration of disaster-damaged, publicly owned facilities and the facilities of eligible PNP organizations. The PA Program also encourages protection of these damaged facilities from future events by providing assistance for hazard mitigation measures during the recovery process. The Federal share of assistance is not less than 75% of the eligible cost for emergency measures and permanent restoration. The Grantee determines how the non-Federal share (up to 25%) is split with the eligible Applicants. The PA Program encourages planning for disaster recovery, but PA Program funds may not be used for the costs of conducting pre-disaster Recovery planning.

Recipients and Sub-recipients of PA are required to comply with applicable provisions of laws and authorities prohibiting discrimination, including but not limited to:

- Title VI of the Civil Rights Act of 1964, which prohibits discrimination based on race, color, or national origin (including limited English proficiency)
- Sections 308 and 309 of the Stafford Act, which require the impartial and equitable delivery of disasters services and activities, without discrimination on the grounds of race, color, religion, nationality, sex, age, disability, English proficiency, or economic status
- Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination based on disability
- Title IX of the Education Amendments Act of 1972, which prohibits discrimination based on sex in education programs or activities
- Age Discrimination Act of 1975, which prohibits discrimination based on age
- U.S. Department of Homeland Security regulation 6 C.F.R. Part 19, which prohibits discrimination based on religion in social service programs
- 2 C.F.R. 200 - Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, Subpart D – Post Federal Award Requirements § 200.300 Statutory and national policy requirements

The PA Program is based on a partnership between FEMA, State, and local officials. FEMA is responsible for managing the Program, approving grants, and providing technical assistance to the State and Applicants.

The State acts as the Grantee for the PA Program. FEMA, the State, and the Applicant are all

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responsible for grants awarded under the PA Program. The State educates potential Applicants, works with FEMA to manage the PA Program, and is responsible for implementing and monitoring the grants awarded under the PA Program.

Local Officials are responsible for identifying damage and providing damage estimates for the State to validate. The data provided should be sufficient for FEMA to develop an accurate scope and cost estimate for doing the work so that FEMA can effectively approve grants and manage the projects funded under the PA Program.

The PA Program Staff consists of State and federal management and field personnel who assist the Applicant during the recovery process. These staff members include a Public Assistance Group Supervisor, PDMG, Site Inspectors, Technical Specialists and CRC personnel.

Duties of the PA Staff are described below:

FEMA PA Infrastructure Branch Director (IBD) – The PA Program is managed at the JFO by the IBD. As the program manager, the IBD advises the FCO/SCO on all PA Program matters; manages the operation of PA Program Staff and any coordination between the PA Program and other assistance within the Federal disaster recovery effort; works with State counterparts; and ensures that the PA Program is operating in compliance with all laws, regulations, and policies.

Program Delivery Manager (PDMG) – FEMA team member who supervises the project from formulation to the obligation of funds; the PDMG ensures continuity of service during active JFO operations. A PDMG generally has responsibility for 5 - 7 Applicants. The PDMG provides customer service to assigned applicants and is expected to remain with assigned applicants for the duration of active disaster operations.

State Public Assistance Officer – The State official specifically responsible for working with the FEMA PA IBD in administering the PA Program during disaster recovery operations.

Site Inspectors and Technical Specialists - Site Inspectors and Technical Specialists are resources for the Applicant. They work in conjunction with State staff, including DARs and DAMs. Typically, Site Inspectors are responsible for assisting with the development of the damage dimensions and description for each damaged facility. While PDMGs and Site Inspectors are generally knowledgeable regarding the PA Program, a Technical Specialist usually has a defined area of expertise and may be called upon in the development of a specific project. Technical Specialists assigned to a JFO may have experience in such areas as roads and bridges, utility infrastructure, debris removal and disposal, environmental and historic preservation compliance, insurance, and cost estimating. Once the JFO is established and appropriate FEMA and State personnel are deployed, Applicants can begin the process of requesting and receiving Public Assistance.

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2. Public Assistance Process Overview

The PA Program is implemented through the steps listed below:

- DHSES validates damages reported by County.
- A Joint Preliminary Damage Assessment (PDA) is performed by local officials, FEMA, and the State.
- The State prepares and sends a request for a declaration to FEMA Region II. FEMA reviews the request and makes a recommendation to the President. The President issues a declaration, if appropriate.
- FEMA and DHSES establish and staff a JFO.
- DHSES holds one or more Applicant Briefings.
- Potential Applicants submit a Request for Public Assistance.
- A PDMG/PDAR Team is assigned to each eligible Applicant.
- The PDMG/PDAR Team conducts a Recovery Scoping Meeting with the Applicant to develop a list of disaster related damages identified by the Applicant.
- The Applicants identify their specific needs and prepare cost estimates through the project formulation process.
- FEMA and DHSES validate cost estimates.
- FEMA, with assistance from the State, approves and processes funding for the Applicant's projects.
- Applicants perform the approved scope of work for their projects and comply with applicable conditions.
- Applicants promptly notify DAM upon completion of each project.
- DHSES prepares project closeout request (including Large Project Final Accounting on large projects where appropriate) for submission to FEMA.
- DHSES submits Applicant closeout requests to FEMA.
- DHSES reconciles balances and requests programmatic closure of the disaster.

3. Standard Operating Procedures

FEMA has developed the Public Assistance Program and Policy Guide and applicable Disaster Assistance Policies that provide guidance for FEMA, DHSES and Applicants on the PA processes.¹

4. Preliminary Damage Assessment (PDA)

The Preliminary Damage Assessment (PDA) is performed to document the impact and magnitude of the disaster to public assets and property. FEMA, the State, and Applicants' Representatives participate in this effort.

¹ For the COVID-19 disaster, FEMA continues to develop disaster-specific policies that provide guidance for FEMA, the State, and Applicants on the PA processes under DR-4480.

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The information gathered during the PDA process is used to determine whether Federal assistance should be requested by the Governor and forms the basis for the disaster declaration.

DHSES is responsible for coordinating the Local Preliminary Damage Estimate, conducted by County damage assessment teams.

Information collected by these teams will be reviewed, validated, and documented by DHSES PA to determine if a Joint Preliminary Damage Assessment (PDA) with FEMA is needed. The Joint PDA teams are organized to determine the types of assistance needed and the areas where assistance may be required. This process consists of four distinct phases:

- Phase I – Situation Reporting and Damage Validation (County/DHSES)
- Phase II – Preparation for Joint PDA with (DHSES/FEMA/County)
- Phase III – Assessment of Damage (FEMA/DHSES/Local Applicants)
- Phase IV – Preparation of Summary Report(s)

State Agencies and Authorities participating in PDA – The following non-exhaustive list of State Agencies and Authorities are often involved in the preliminary damage assessment process as potential applicants and provide damage information to DHSES for review and validation:

- Division of Homeland Security and Emergency Services (DHSES)
- Division of State Police
- Department of Transportation (DOT)
- Thruway Authority
- Office of General Services
- Office of Parks, Recreation, & Historic Preservation
- Division of Military and Naval Affairs
- Department of Environmental Conservation (DEC)
- Metropolitan Transportation Authority (MTA)
- New York Power Authority
- Long Island Power Authority (LIPA)

Inspection – The Inspection Team shall consist of a Federal, State and local representatives in each affected area. Following the general briefing, assessments will be conducted separately for the PA and Individual Assistance (IA) Programs.

Inspection of Damage – Immediately following the pre-assessment briefing, the PDA team will proceed to assigned areas to begin damage assessments. Teams responsible for Public Assistance (PA) damage assessment will inspect damage to public and potentially eligible PNP facilities. PA teams may include inspectors with the specific expertise in a particular category of damage. Each team will maintain daily contact with the team leader or team coordinator to provide regular reports on the estimates.

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Dissemination of Information – Information received through the inspection should be disseminated by DHSES field operations staff to the State Public Assistance Officer and other personnel within NYS DHSES for appropriate review and analysis.

Preparation for Joint Preliminary Damage Assessment – Before the submission of the request from DHSES to FEMA for joint Federal-State damage assessment, DHSES PA staff will analyze all available damage estimates, incident data and supporting documentation for the following:

- Type of damage to be surveyed, such as private and public
- Location and geographic spread of the damage and accessibility of the area
- Magnitude and severity of damages
- Problems, such as areas inaccessible due to debris, high water, or damage to streets, roads and bridges, or serious health hazards
- Requirements for emergency protective measures, widespread loss of essential utilities, shortages of food, water, medical supplies, or damages to essential facilities

Pre-assessment Briefing – The FEMA-State PDA Team will meet with representatives from the local government at a designated location, unless the briefings are conducted virtually, in or near the affected area for a general briefing conducted by the State and FEMA coordinators.

Summary Report(s) – Preliminary damage assessment data should be collected on the following FEMA Forms:

- FEMA Form 90-80
- FEMA Form 90-81

Team Leaders will collect damage assessment information from all damage assessment teams. FEMA and State officials will hold a meeting to discuss findings and recommendations. Information gathered will be used in preparing the Governor's request for the Presidential major disaster or emergency declaration.

While conducting the PDA, potential urgent needs in the immediate aftermath of the disaster may be identified and communicated to DHSES leadership for appropriate action.

5. Post Declaration Activities

Notifying Potential Applicants - DHSES will work with local partners and undertake reasonable efforts to notify potential Applicants of the assistance that is available and the time and date of the Applicant Briefing(s) to be held. The size of the disaster area and the number of potential Applicants dictates whether more than one briefing is necessary. Applicant Briefings may be virtual or in person and include the following actions:

- DHSES will notify State agencies of the State Agency Applicant Briefing date.
- DHSES will notify representatives from local governments in the declared counties of Applicant Briefing date.

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- DHSES will assist local officials in identifying PNP Applicants that may be eligible for assistance.
- During a widespread virus or pandemic disaster, DHSES will engage health and human service agencies to help identify PNP applicants that may be eligible for assistance.
- State and Federal Public Information Officers will brief the press and other media as appropriate.
- DHSES will conduct Applicant Briefings virtually. When appropriate, DHSES will also request local governments provide a publicly owned facility (school, administration building, courthouse, library, etc.) to conduct the Applicant Briefing in person.
- DHSES and FEMA will assist Applicants in establishing accounts in Grants Portal and entering appropriate documentation in Grants Portal.

Applicant Briefing - Once a designated area has been approved for Public Assistance, DHSES staff will conduct Applicant Briefing(s) for potential Applicants. The Applicant Briefing will be tailored to the specific types of assistance authorized by the disaster declaration. Potential Applicants will be encouraged to send appropriate representatives from management, operations, and finance departments to obtain the maximum benefit from the information presented at the Applicant Briefing. FEMA personnel, at the State's request, may participate in the Briefing to clarify issues regarding eligibility, floodplain management, insurance requirements, environmental and historic preservation considerations, hazard mitigation, and Federal procurement standards.

Request for Public Assistance (RPAs) - The Applicant will be required to submit an RPA (FEMA Form 90-49) to the State for submission to FEMA within 30 days from the date of the declaration. RPAs submitted after this 30-day period will be reviewed on a case-by-case basis and, if warranted, will be forwarded to FEMA for consideration. If necessary, the State may request that the deadline for filing RPAs be extended. DHSES will assist Applicants with entering RPAs in Grants Portal and will submit all RPAs to FEMA for review and approval after DHSES review.

Assignment of the Program Delivery Manager (PDMG) - Once an Applicant's RPA has been forwarded to FEMA and approved, the PDMG/PDAR Team is assigned to the Applicant. The PDMG, with assistance from the PDAR:

- Conducts an exploratory call followed by a Recovery Scoping Meeting with the Applicant to discuss the Applicant's Damage Inventory and the Public Assistance Program and its application to the Applicant's specific needs
- Works with the Applicant to schedule necessary site visits
- Obtains the appropriate technical assistance, if required, for the Applicant's project(s)
- Reviews projects for compliance with applicable laws, regulations, and policies
- Ensures that any Special Considerations associated with a project are identified and reviewed
- Assists with ensuring necessary documentation is provided by the Applicant and attached in Grants Portal
- Ensures that the Applicant's Case Management File is maintained

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Applicant's Eligibility (44 CFR §206.207(b)(iii)(C)) - The SPAO or their designee will assist FEMA in determining Applicant's eligibility. Eligible Applicants under the Public Assistance Program are: State Agencies, local governments and governmental entities, Native American Tribes, and certain Private Non-Profit organizations.

Eligible Private Non-Profit organizations must own or operate educational, utility, emergency services, medical, custodial care, or essential governmental service facilities. Essential governmental service facilities are defined as museums, zoos, community centers, libraries, homeless shelters, senior citizen centers, rehabilitation facilities, shelter workshops, and other facilities which provide a health and safety service of a governmental nature. In most cases, such facilities must be open to the general public. Eligible Private Non-Profit organizations must have an IRS tax exemption letter under Section 501 (c), (d), or (e) of the Internal Revenue Code of 1954 or a Letter from The New York State Department of Taxation stating that the Agency is a Private Non-Profit Organization and doing business under State law or other Private Non-Profit certification (e.g., Articles/Certificate of Incorporation).

For the purpose of determining if a PNP organization provides essential services of a governmental nature, the following are the specific examples of identical services and respective facilities provided by legal political subdivisions of the State:

- **Educational** - Classrooms and related supplies, equipment, and utilities necessary for instructional, administrative, and support purposes.
- **Utility** - Buildings, structures, or systems of energy, communication, water supply, sewage collection and treatment.
- **Emergency Services** - Buildings, equipment, or systems used to provide emergency services such as fire protection, ambulance or rescue service to the general public, including administrative and support facilities, even if not contiguous.
- **Medical** - Any hospital, out-patient facility, rehabilitation facility, or facility for long-term care as defined in the Public Health Service Act and any similar facility offering diagnosis or treatment of mental or physical injury or disease, including the administrative and support facilities essential to the operation of such medical facility even is not contiguous.
- **Custodial Care** - Buildings, structures, or systems including those for essential administration and support which are used to provide institutional care for persons who require close supervision and some physical constraints on their daily activities for their self-protection, but do not require day-to-day medical care.
- **Other Essential Governmental Services** - Services, generally provided by the State or local governments and would probably be provided in the disaster area by the government if such service were not already being provided by a Private Non-Profit organization. Examples include Houses of Worship, museums, zoos, community centers, libraries, homeless shelters, senior citizen centers, rehabilitation facilities, shelter workshops, and those facilities whose primary purpose is the provision of health and safety services. Health and safety services examples include low-income housing, alcohol and drug rehabilitation, programs for battered individuals, transportation to medical facilities, and food programs.

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- **Examples of “Public Facilities”** – Facilities (publicly owned) providing flood control, navigation, irrigation, reclamation, public power, sewage treatment and collection, water supply and distribution, watershed development, airport facilities, any non-federal aid and publicly owned street, road, or highway, and any other public building, structure, or system, including those used for educational, recreational, or cultural purposes, or any public park.
- **Ineligible Organizations** – Organizations (generally private for profit) providing recreational services, job counseling or job training, advocacy groups not directly providing health services, conference facilities, performing arts, parking garages, cemeteries, daycare centers (other than senior citizen), property owner associations (roads, recreational facilities), and other groups not providing health or safety services and/or not open to the general public.

6. Public Assistance Grant Application/Project Application Packages

Grant Approval - The State will submit an "Application for Federal Assistance" (SF-424), and an "Assurances - Construction Programs" (SF-424D), to FEMA to receive Federal funding. Approved Project Worksheets will be the basis for issuing Sub-Grants to eligible Applicants in accordance with the cost sharing provisions established in the FEMA-State Agreement.

Project Application - The State will notify the Applicant when its project application is prepared and ready for signature. The State will assist the applicant in reviewing the project in Grants Portal prior to the applicant signing the project in Grants Portal. Once Project Worksheets are obligated by FEMA, the State will distribute the project worksheet to the Applicants and initiate payments if appropriate.

Project Worksheet Preparation will depend on the size and nature of the disaster, the State may choose to participate at various levels in the PA process.

In partnership with FEMA, the varied levels of State involvement may include:

- Providing State support as needed (such as personnel to assist with programmatic issues, etc.).
- Notifying FEMA of any special considerations and/or technical assistance requirements needed to facilitate project approval.
- Assigning a State Project Officer (PO) or Disaster Assistance Representative (DAR) and/or Technical Specialist to assist the Applicant in developing scopes of work and cost estimates.
- Assisting FEMA and the Applicant in identifying hazard mitigation opportunities as provided by Section 406 of the Stafford Act.
- Assisting FEMA and the Applicant in identification of potential Projects.
- Submitting applications and making recommendations to FEMA on project validation and approval.
- Requesting damage identification time extensions, if warranted, when an applicant is unable to identify any eligible damage within 60 days of the initial FEMA Recovery

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Scoping meeting.

- Requesting re-inspections for additional significant damage not previously identified during the Joint Field Office period of operations.

The Applicant will:

- Identify its damages and participate in the formulation and development of its projects including providing the FEMA/State Team with information and documentation necessary to develop a scope of work and a cost estimate.
- Address pertinent equity considerations, environmental and historic preservation requirements, insurance coverage, floodplain management issues and hazard mitigation opportunities.
- Follow all local, State and Federal procurement procedures and ensure no debarred or suspended contractors are used for any awarded grant or contract.
- Develop Damage Inventory List in Grants Portal within 60 days of the initial Recovery Scoping Meeting. If the Applicant is unable to identify any damage within this time frame, they must identify the extenuating circumstances preventing them from identifying damage. If warranted, the State may request an extension of time to report additional damage. In cases where an Applicant is unable to identify any damage within the deadline and any extension granted by FEMA, the Applicant will be withdrawn from the disaster declaration.

7. Funding Methods

Immediate Needs Funding (INF) - For emergency work that must be performed immediately and paid for within the first 60 days after the disaster declaration. This form of funding must be requested by the State. Activities eligible for INF typically include debris removal and emergency protective measures.

The funding may be used to cover such costs as overtime payroll, equipment costs, materials purchases, and contracts when these costs are incurred for emergency work. The amount of INF is limited to 50 percent of the PDA estimate of eligible emergency work costs.

INF is not intended for those emergency work items that involve environmental or historic preservation concerns, work covered by insurance, or items of work that will require longer than 60 days to complete. Some examples of work for which INF is not appropriate are:

- Demolition of historic structures or parts of historic structures
- Emergency work efforts covered by an existing insurance policy (such as building demolition or the removal of building debris)
- Debris removal and disposal within the Coastal Barrier Resources system
- Large debris removal/disposal projects or major demolition of destroyed building projects that will require more than 60 days to complete.

The project/PW will be labeled as "INF."

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Expedited Payments – May be available for Applicants who participated in the PDA and who have applied for Public Assistance. FEMA may obligate 50 percent of the Federal share of the estimated cost of work under Categories A and B as estimated during the PDA. Payment for Category A will be within 60 days after the estimate was made and no later than 90 days after the Request for Public Assistance was submitted. Expedited payments are not intended for work that involves environmental or historic preservation concerns or work covered by insurance. The payments will need to be reconciled with actual costs.

FEMA provided specific guidance regarding the development of the estimate of eligible emergency work costs for DR-4480 (COVID-19). In the instance of future widespread virus or pandemic events where a typical PDA cannot be conducted, NYS DHSES will consult with FEMA regarding the need and development of disaster specific guidance on estimating eligible emergency work costs, work completion deadlines, and processes for expedited payments.

The State generally will not advance funds outside of the INF or Expedited Payments options. To receive funds under either INF or Expedited Payment, the Applicant must sign a funding agreement and certify that they have spent, or will spend within 60 days, the funds on eligible expenditures. The Applicants should be aware of the requirements imposed upon them by Federal and State Statutes (such as allowable costs, cash management, reporting, etc.) in accordance with 2 CFR, 44 CFR §13.22 and § 13.37.

8. Project Formulation

Project formulation is the process of grouping damages, identifying the eligible scope of work and estimating the costs associated with that scope of work for each of the Applicant's projects.

9. Small and Large Projects

To facilitate project review, approval, and funding, projects are divided into small and large projects based on the monetary threshold established in Section 422 of the Stafford Act and elaborated on in 44 CFR §206.203(c). Small projects are those projects with a total estimated cost below the threshold, and large projects are those projects with a total estimated cost at or above the threshold.

The threshold is adjusted each fiscal year to account for inflation and is published in the Federal Register. Projects are categorized as large or small based on the eligible damage cost of the approved project/PW. Subsequent project/PW versions prior to closeout affect categorization as a large or small project. Funding methods for small and large projects differ as explained below.

Small Project funding is based on actual or estimated costs. Payment is made based on the initial approved amount, whether estimated or actual. Even if all funds are not expended on the project, the Federal share amount does not change. Revisions to the initial project/PWs may be required if there are omissions or changes in scope; revisions to project/PWs may result in changes in funding level and/or category.

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Large Project funding is based on documented actual costs. Because of the complexity and nature of most large projects, work typically is not complete at the time of FEMA approval. Therefore, most large projects initially are approved based on estimated costs. Funds generally are made available to the Applicant on a progress payment basis as work is completed. When all work associated with the project is complete, the State performs a reconciliation of actual costs and transmits the information to FEMA for consideration for final funding adjustments.

10. The Project

An Applicant has 60 days following the first substantive meeting, usually the Recovery Scoping Meeting with FEMA, to identify and report damages to FEMA. The Project Report is the primary form used to document the location, damage description and dimensions, scope of work, and cost estimate for each project. The Project Report is the basis for the grant. Applicants are strongly encouraged to submit projects as soon as possible to expedite the assistance process. The Applicant will be provided assistance with the preparation of projects. The PDMG/PDAR Team will provide the Applicant with assistance. The Applicant is responsible for requesting inspections and changes in projects at any point in the grant process when changes in the project scope of work or its costs are identified. The State and FEMA will evaluate the information and, if significant, take appropriate action.

11. Categories of Work

To facilitate the processing of Public Assistance grants, FEMA has divided disaster-related work into two broad groups: Emergency Work and Permanent Work.

Emergency Work (Categories A and B) are “emergency efforts” to save lives, protect improved public or private property, and maintain the operation of essential facilities performed during the first six (6) months following a disaster. DHSES may grant up to a 6-month extension for Emergency Work (except for temporary facilities), and any additional extensions must be approved by FEMA.

Permanent Work (Categories C, D, E, F, and G) involve actions necessary to repair, restore, reconstruct, or replace public, and critical Private Non-Profit facilities damaged or destroyed by the disaster within a period of eighteen (18) months. DHSES may grant up to a 30-month extension, and any additional extensions must be approved by FEMA.

a. Emergency Work

Category A: Debris Removal

Eligible debris removal activities include the clearance of:

- Trees and woody debris
- Building wreckage, components or contents
- Sand, mud, silt, and gravel
- Other disaster-related wreckage

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To be eligible for Public Assistance, debris removal must be in the public interest, which is when removal is necessary to:

- Eliminate immediate threats to lives, public health and safety
- Eliminate immediate threats of significant damage to improved public or private property
- Ensure economic recovery of the affected community to the benefit of the community-at-large or
- Mitigate the risk to life and property by removing substantially damaged structures and associated appurtenances as needed to convert property acquired using FEMA hazard mitigation program funds to uses compatible with open space, recreation, or wetlands management practices

In all cases, the costs associated with these activities must be reasonable.

Category B: Emergency Protective Measures

Emergency protective measures are those activities undertaken by a community before, during, and following a disaster that are necessary to do one of the following:

- Eliminate or reduce an immediate threat to life, public health, or safety; or
- Eliminate or reduce an immediate threat of significant damage to improved public or private property through cost-effective measures.

Generally, those prudent actions taken by a community to warn residents, reduce the disaster damage, ensure the continuation of essential public services, and protect lives and public health or safety are eligible for assistance. Such activities should be evaluated to ensure that they meet the criteria of the law. The following list provides some examples of activities that may be eligible:

- Warning of risks and hazards
- Search and rescue, including transportation of disaster victims
- Stabilization of slopes to address immediate threat to life, public health and safety, or improved public or private property

b. Permanent Work

Category C: Roads and Bridges

Roads, bridges, and associated facilities (e.g., auxiliary structures, lighting, and signage) are eligible for Public Assistance.

For roads (paved, gravel, and dirt), eligible items may include but are not limited to:

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- Surfaces
- Bases
- Shoulders
- Ditches
- Drainage structures
- Low water crossings

For bridges, eligible items may include but are not limited to:

- Decking and pavement
- Piers
- Girders
- Abutments
- Slope protection
- Approaches

Category D: Water Control Facilities

Water control facilities may include but are not limited to:

- Dams and reservoirs
- Levees
- Lined and unlined engineered drainage channels
- Canals
- Aqueducts
- Sediment basins
- Shore protective devices
- Irrigation facilities (for PNP eligibility, see 44 CFR §206.221(e)(3))
- Pumping facilities

Category E: Buildings and Equipment

Buildings, including structural components, interior systems such as electrical or mechanical work, equipment, and contents including furnishings, are eligible for repair or replacement. Public Assistance may be provided for the replacement of pre-disaster quantities of consumable supplies and inventory and for the replacement of library books and publications. Damaged or lost files are eligible only for stabilization (e.g., freeze drying or copying); re-establishing files and records from original information is not eligible.

Removal of mud, silt, or other accumulated debris is eligible as permanent work if the debris does not pose an immediate threat but its removal, along with any cleaning and painting is necessary to restore the building. If the work meets the immediate threat criteria, removal of disaster-related debris and treatment of spreading mold (in the

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immediate aftermath of the disaster) may be eligible as emergency work.

Category F: Utilities

Utilities include:

- Water treatment plants and delivery systems
- Power generation and distribution facilities, including natural gas systems, wind turbines, generators, substations, and power lines
- Sewage collection systems and treatment plants
- Communications

Category G: Parks, Recreational Facilities, and Other Facilities

Eligible publicly owned facilities in this category include:

- Mass transit facilities such as railways
- Playground equipment
- Swimming pools
- Bath houses
- Tennis courts
- Boat docks
- Piers
- Picnic tables
- Golf courses
- Fish hatcheries
- Facilities that do not fit Categories C-F

Other types of facilities, such as roads, buildings and utilities, that are located in parks and recreational areas are also eligible and are subject to the eligibility criteria for Categories C, D, E, and F.

12. Combining Work and Creating Projects

The Applicant, in coordination with the PDMG/PDAR Team, may combine work items into projects. In this manner, the projects may be organized around the Applicant's needs. A project may consist of one item of work, such as repairs to a single structure, or work that occurs at multiple sites, such as repairs to several washouts along a road.

Emergency work and Permanent work may be combined into one project only when the Emergency work is incidental to the Permanent work.

Applicants determine how projects will be grouped, formulated and/or granted. If multiple sites are combined into one project with a total estimated cost above the large project threshold, that project will be considered a large project. Categories of permanent work are not normally

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combined. A PDMG/PDAR Team will be assigned to work with the Applicant to develop that project. Responsible officials should consider preparing separate projects if Special Considerations (e.g., insurance, hazard mitigation, and environmental and historic preservation issues) are of concern for any individual sites. Compliance requirements of a particular Special Considerations issue for the one site could delay funding for other sites, if grouped as one project.

FEMA regulations establish the minimum project threshold, which is updated annually, and that threshold applies to all projects in a declaration declared during that federal fiscal year. For FFY 2023, FEMA regulations state that individual projects of less than \$3,800 in estimated costs are not eligible. However, it is acceptable to combine sites less than \$3,800 in estimated costs into one project when the work meets the conditions shown above for combining sites. Separate sites less than \$3,800 in estimated eligible work costs without a reasonable relationship to other sites may not be combined and are ineligible. The minimum project threshold does not apply to donated resources projects or management cost projects.

13. Identifying the Damaged Facility

If a project is a single site, the name of the facility and its basic function (if necessary) should be recorded. If the project is comprised of multiple sites, and possibly a combination of emergency work and a category of permanent work, the damaged facility title may be more general. For these cases, more specific names and location information should be provided for each site within the Damaged Description and Dimensions area of the project. Detailed maps and sketches may be necessary to identify each location.

14. Project Location

The exact location of the damaged facility or area where the disaster costs covered by the project were or will be incurred must be identified. This information should be specific enough to enable other field personnel to locate the facility easily if a site visit is necessary. If possible, the precise latitude and longitude of the damaged site should be included.

When a project combines several damage sites, a general location reference should be included in the Location block and more detailed information to identify specific locations for each individual site should be provided in the Damage Description block.

15. Damage Description and Dimensions

When appropriate, a brief description of the facility should be included in Damage Description and Dimensions. The cause of damage, a description of the damaged elements of the facility, and the dimensions of the damaged elements must be included on the project. All damage must be documented. Damage sustained as a direct result of the disaster event should be differentiated from pre-existing or non-disaster related damage. The specific cause of damage must relate to the incident for which the disaster was declared. It is important to completely describe the cause of damage because it can affect eligibility determinations.

The damage must be described in terms of the facility, features, or items requiring repair. All

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damaged elements must be clearly defined in quantitative terms with physical dimensions (such as length, width, depth, and capacity). Without appropriate dimensions of the damaged elements, proper estimates of material quantities cannot be developed by the Applicant or FEMA. In some disasters, Applicants may perform emergency protective measures work to protect against a threat to improved property before, during, or immediately after the disaster. For such situations, the project should contain a brief description of the threat and of the threatened improved property.

16. Scope of Work

The scope of eligible work necessary to repair the damage must be completely described and correspond directly to the cause of damage. The work should be specified as an activity with quantifiable (length, width, depth, capacity) and descriptive (brick, wood, asphalt, timber deck bridge) terms. The scope of work should not be described only as "restore to pre-disaster design." If part of the work is completed prior to project approval, the work that has been completed should be distinguished from the work remaining.

Any other information that is pertinent to the scope of work should be documented, such as:

- Eligible codes and standards - provide copies of specific codes and standards, especially if proposed repairs or replacements exceed the pre-disaster design.
- Evidence of pre-disaster damage, such as cracks on a steel bridge covered by rust and corrosion.
- Pre-disaster inspection reports noting deficiencies.
- Ineligible work, maintenance, inactive facilities, responsibilities of Other Federal Agencies, etc.
- Reference to a Hazard Mitigation Proposal if one is included for the project.
- Indication that the project is an Improved Project, if applicable. A description of the overall project must be included.
- Any special equipment or construction approach, such as very heavy trucks, access roads, staging areas, coffer dams, etc.
- A description of the larger action, if the project is part of one, e.g., one building within a complex.
- Any special engineering reviews or analysis (hydrologic, geologic, etc.).

If additional damage to the facility is found after the project is completed, it is necessary to document that damage, show how the damage is disaster-related, and request a re-inspection by FEMA.

17. Small Project Validation

Special validation procedures apply to small projects written and submitted by an Applicant. The purpose of this validation process is to ensure that the Applicant has complete, accurate scopes of work; the work and costs included in the projects are eligible for Public Assistance; the cost estimates are accurate and reasonable; and the work completed has been verified.

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DHSES has adopted FEMA's Sampling Procedure for validating documents when the number of documents exceeds 105 in any category. If significant discrepancies are found in the initial sample, a second sample of 105 documents is assessed. If discrepancies are again found, the Applicant will be required to provide all documentation for technical assistance and review.

If an Applicant chooses to write their own small projects, an Applicant typically has 60 days from the date of the Recovery Scoping Meeting to submit small projects, unless FEMA or the State has set an earlier deadline. For small projects submitted within 30 days of the RSM, FEMA may validate based on a 20 percent sample of the small projects submitted. Small projects submitted after 30 days are subject to 100 percent validation. Review validates projects for facility, work, cost, contract eligibility, and special considerations. Typically, a site visit is required during the validation process. Funding for all small projects (except those with special considerations) that are in the group submitted for validation will be obligated at one time as long as any required corrections are made. Small projects with special considerations will be obligated as each one completes the necessary special considerations reviews.

18. Special Considerations

The validation process includes attention to possible special considerations, such as insurance, hazard mitigation, and compliance with environmental and historic preservation laws, including floodplain management. All eligible amounts for insured property must be reduced by the amount of insurance proceeds received or anticipated from a review of the insurance policy. Cost-effective hazard mitigation measures should be considered with the repair of a damaged facility for all permanent work projects (Categories C through G). Historical preservation and environmental issues may also merit special consideration.

19. Grant Processing - Financial Management and Cost Principles

FEMA and the State share responsibility for making PA Program funds available to the Applicant. FEMA is responsible for conducting environmental/ historic preservation review, approving projects, and making the Federal share of the approved amount available to the State through a process known as obligation. Funds that FEMA has obligated are available to the State via electronic transfer but reside in a Federal account until the State is ready to award grants to the appropriate Applicants. The State cannot request funds more than three business days in advance of disbursing them. The State is responsible to ensure the non-federal share of the eligible costs are provided by the non-federal entity and for notifying the Applicant that funds are available. The State will use methods and procedures for payment that minimize the time between the transfer of funds to the State and disbursement by the State in accordance with Federal cash management requirements. Such procedures include taking into consideration the change in practice where FEMA no longer requires proof of payment prior to obligating a project but the State is required to validate proof of payment before disbursing funds. For Applicants requesting Immediate Needs Funding or Expedited Payment, the State will request funds expeditiously to meet the intent of the funding.

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New York State has adequate financial management systems to account for and record all aspects of financial transactions. The Statewide Financial System (SFS) is New York State's accounting and financial management system.

SFS is an integrated budgeting and accounting software suite that manages essential fiscal functions such as budget allocations, accounts payable, accounts receivable, contract management and reporting. SFS supports planning, organizing and monitoring financial resources to properly track expenditures and disbursement of funds. There are various methods in SFS to ensure grants are tracked at multiple levels and overspending does not occur. The Office of the State Comptroller establishes appropriation/segregation control for all account levels. Segregations are controlled at the highest account level and conform to appropriation bill copy governed by State Finance Laws. NYS DHSES establishes segregations at lower levels by assigning various account codes to each grant and category of spending. This allows for proper accounting for transactions such as personal service, overtime, fringe benefits, supplies and materials, travel, contractual service and equipment.

To classify costs, the State has established a method for DSHES staff to track their time utilizing 2 CFR Subpart E. Staff enter their time worked in a time and attendance application and segregate their hours worked by disaster grant and activity or task.

Public Assistance funds are not used to pay for centralized service expenses charged to the agency, therefore, the State is not required to submit an Indirect Costs Proposal, pursuant to 2 CFR §200.416.

20. Methods of Payment

The method of payment to the Applicant is dependent on the type of project.

Small Projects

Payment for small projects is made at the time of project approval based on the approved cost estimate. The State will disburse the Federal share to the Applicant as soon as practicable after FEMA has obligated the funds.

Once a small project is complete, the State will certify that the project complies with the provisions of the FEMA-State Agreement and that all payments due have been made. This certification does not specify the amount spent on the projects, only that the projects were completed. If a small project, including any mitigation work, was not started or was not completed, funds will be de-obligated by FEMA.

If the Applicant spends less than the amount approved by FEMA, the Federal share will not be reduced to match actual costs. However, if the Applicant incurs costs significantly greater than the total amount approved for all small projects, the Applicant may appeal for additional funding as a net cost overrun for all small projects combined, not to an overrun for an individual project.

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Such a request for a net cost overrun is considered a first appeal. This request cannot be made until all work has been completed on all small projects for an applicant.

Large Projects

Due to the nature of most large projects, work is not typically complete at the time of project approval. Therefore, FEMA obligates grants based on a combination of work documented as completed, eligible, and an estimate of costs to complete remaining eligible work.

Funds (progress payments) are made to the Applicant as actual costs, including proof of payment, are validated and compliance with conditions are documented. Upon completion of a large project, an Applicant must submit documentation to the State to account for all incurred costs.

The State will provide reasonable assurance that all incurred costs are associated with the approved scope of work and for certifying that work has been completed in accordance with FEMA standards and policies. The State then submits documentation of project costs to FEMA for review. Once the review is complete, FEMA determines whether funds should be obligated or de-obligated for the project.

21. Funding Options

Grants for most projects are processed in the manner described above. However, an Applicant may elect to use a Public Assistance Grant for activities that are outside of the originally approved scope of work. Funding options available to the Applicant are described below:

Improved Projects

When performing permanent restoration work on a damaged facility, an Applicant may decide to make improvements to the facility while restoring its pre-disaster functionality and its pre-disaster capacity. To be considered an improved project, there must be additions to either function or capacity. For example, the Applicant may decide to lay asphalt on a gravel road or replace a firehouse that originally had two bays by adding a third bay. Projects that incorporate such changes are called improved projects.

The Applicant must obtain approval for an improved project from the State prior to the start of construction. Further, any improved project that results in a significant change from the pre-disaster configuration of the facility must also be approved by FEMA prior to the construction to ensure completion of the appropriate environmental and/or historic preservation review.

An Applicant may request an improved project for either a small or large project. The improved facility must maintain the same functionality and the pre-disaster capacity as

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that of the pre-disaster facility. Time limits that would be associated with repairing the damaged facility to its pre-disaster design apply to the improved project construction. Funding for such projects is limited to the Federal share of the costs that would be associated with repairing or replacing the damaged facility to its pre-disaster design, or to the actual costs of completing the improved project, whichever is less. If eligible repair or replacement costs exceed the original estimate and costs can be separately documented (i.e., if approved costs can be tracked separately from improvement costs), the Applicant should not request improved project status for the project. Any additional costs for complying with codes and standards or compliance with environmental and historic preservation laws, regulations, and Executive Orders (EOs) required by the construction of the improvements, but not required by the original eligible scope of work, are not eligible. The balance of the funds is a non-Federal responsibility. Funds to construct the improved project can be combined with a grant from another Federal agency, however, Federal grants cannot be used to meet the State or local cost-share requirement unless the legislation for the other grant allows such use (e.g., the Community Development Block Grant (CDBG) program).

If the original facility is being repaired and improvements are being added, FEMA may provide assistance with hazard mitigation under Section 406 of the Stafford Act. These funds must be applied to the original facility. If the improved project involves a completely new facility on the same site or on a different site, FEMA cannot approve Section 406 Hazard Mitigation funding that may otherwise have been eligible for the original facility.

Alternate Projects

An Applicant may determine that the public welfare would not be best served by restoring a damaged facility or its function. In this event, the Applicant may use the PA grant for that facility for other eligible purposes. Funds may also be used on more than one alternate project, and an Applicant may request an alternate project in lieu of either a small or large project, but only on permanent restoration projects. Funds for debris removal and emergency protective measures cannot be used for alternate projects. The alternate project must serve the same general area that was being served by the originally funded project. The original facility must be rendered safe and secure, sold, or demolished. If an Applicant opts to keep a damaged facility for a later or another use, it will not be eligible for FEMA funding in a subsequent disaster unless it is repaired to meet codes and standards, and mitigation measures that would have been approved are applied.

In general, alternate project funding may be used to repair or expand other selected public facilities, construct new facilities, demolish the original structure, purchase equipment, cover Stafford Act §406(d) insurance reductions on a facility eligible under the PA Program, or fund cost-effective hazard mitigation activities, as long as the purpose is to meet a need for governmental services and functions in the disaster area.

The proposed alternate project may not be located in the regulatory floodway and flood insurance will be required if it is located in the 100-year floodplain. Funds for alternate

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projects cannot be used for operating costs or to meet the State or local share requirement on other Public Assistance projects or projects that utilize other Federal grants. 406 Hazard Mitigation funds that may have been approved for an original facility cannot be applied to an alternate project. All requests for alternate projects must be approved prior to construction. FEMA must ensure that the proposed project represents an appropriate use of funds and complies with applicable environmental and historic preservation laws. Alternate projects for PNP Applicants must be for facilities that would be eligible for assistance under Section 406 of the Stafford Act.

The costs of complying with laws, regulations, and EOs on the damaged facility are considered project costs for purposes of calculating the grant. Any additional costs for complying with codes and standards or compliance with environmental and historic preservation laws, regulations, and EOs for the alternate facility are not eligible.

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22. Recoupment of Federal Funds

If an approved project/PW is completely or partially de-obligated, the Applicant will be notified as soon as possible. The New York State DHSES Disaster Recovery Finance section will request reimbursement from the Applicant after a supplemental PW version (de-obligating the approved funding) is processed. DHSES may withhold payment on other open projects until the Applicant completes reimbursement to the State. If an Applicant does not return funds timely and FEMA is unable to process a de-obligation due to insufficient funds in the federal account, DHSES will return funds owed to FEMA via the FEMA lockbox.

23. Closeout

The PA Program is considered programmatically closed when FEMA assures that all the grants awarded under the PA Program for a given disaster meet the statutory and regulatory requirements governing the program. This includes any compliance with environmental and historic preservation requirements and any insurance purchase requirements. To achieve programmatic closure, FEMA ensures that all funds have been obligated. In addition, FEMA must resolve any appeals before programmatic closure is complete.

With programmatic closure, FEMA understands the total amount of Federal funds that will be obligated for the disaster.

Financial reconciliation of the grant, or grant closure, occurs later, when FEMA and the State reach agreement that all applicable administrative actions related to the PA Program are complete and all program funds related to the disaster have been reconciled. At that point, all PA Program projects have been completed and closed, all applicants have been closed, the State has awarded all grant funds and submitted its final expenditure report to FEMA, and FEMA has adjusted the funding level for the program, as appropriate. Once grant closure occurs, no additional actions related to the program may be considered other than possible audits. FEMA may conduct an audit of the program during or after grant closure.

FEMA and the State have established a closeout process for consistency in delivering and monitoring the PA Program. The closeout process will expedite the release of unneeded obligations resulting in timely disaster closures and will establish time standards for the completion of closeouts.

The closeout process will be managed by the FEMA-State Closeout Team. This team provides complete program management and grant closeout by effectively monitoring an Applicant's progress in completing approved projects and taking prompt actions to address known issues in a timely manner. The team provides assistance and customer service necessary to enable an Applicant's recovery from the effects of a declared event (disaster or emergency) while maintaining the required controls to ensure that FEMA, the State (Grantee) and the Applicant protect the interests of the public at large, through the responsible management of public funds.

The FEMA/State Closeout Team responsibilities:

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- Serves as Applicants' point of contact for closeout activities;
- Has oversight over all closeout actions;
- Is responsible for developing standard operating procedures for the closeout process and ensuring that the standard procedures are followed unless exceptions are approved because of extraordinary circumstances; and
- Establishes a system for encouraging and recognizing efforts and successes (including best practices) for timely closeout of disasters.

FEMA and the State will conduct quarterly closeout coordination meetings within two weeks of receipt of the Grantee Quarterly progress reports to set performance measures and resolve issues. An agenda shall be established in advance to have appropriate staff in attendance and will at a minimum contain the following talking points:

- Reconciliation of Grants for large projects
- Open disasters
- Outstanding Applicant's request and any open correspondence
- Unobligated Project Worksheets
- Environmental and Historical issues
- Appeals
- Closeout projections

Grant closeout includes both program and grant management activities, requiring FEMA and the State to work together to accomplish mutual goals and objectives.

State Responsibilities include, but not limited to:

- Monitors the completion of projects to provide reasonable assurance that Applicants:
 - Complete work in accordance with grant conditions
 - Adhere to the approved scope of work
 - Adhere to environmental and all permitting requirements
 - Complete work within regulatory time frames
 - Document changes in grant conditions and report them to State
 - Comply with and provide documentation of insurance requirements
- Reviews and analyzes Applicant appeals and transmit to FEMA with Grantee analysis and justification
- Requires that Applicants document requests for supplemental or additional funds and submit them to FEMA for review
- Reconciles actual costs for large projects and provide documentation with a summary to FEMA
- Participates in monthly, quarterly, and yearly closeout coordination meetings

FEMA Responsibilities include, but not limited to:

- Participates in monthly, quarterly and yearly meetings with the Grantee

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- Evaluates Final Reconciliation Reports from the Grantee and respond appropriately within 30 days
- Facilitates the resolution of any issues with Sub-Recipients or Grantee, makes eligibility determinations and provides response in a timely manner (expectation is within 30 days)
- Reviews and evaluates Sub-Recipient's appeals and provide response to the Grantee within 30 days
- Evaluates Grantee's quarterly progress reports and coordinate with the Grantee to address any non-compliance issues

Closeout Process Field Operations Flow Chart outlined below:

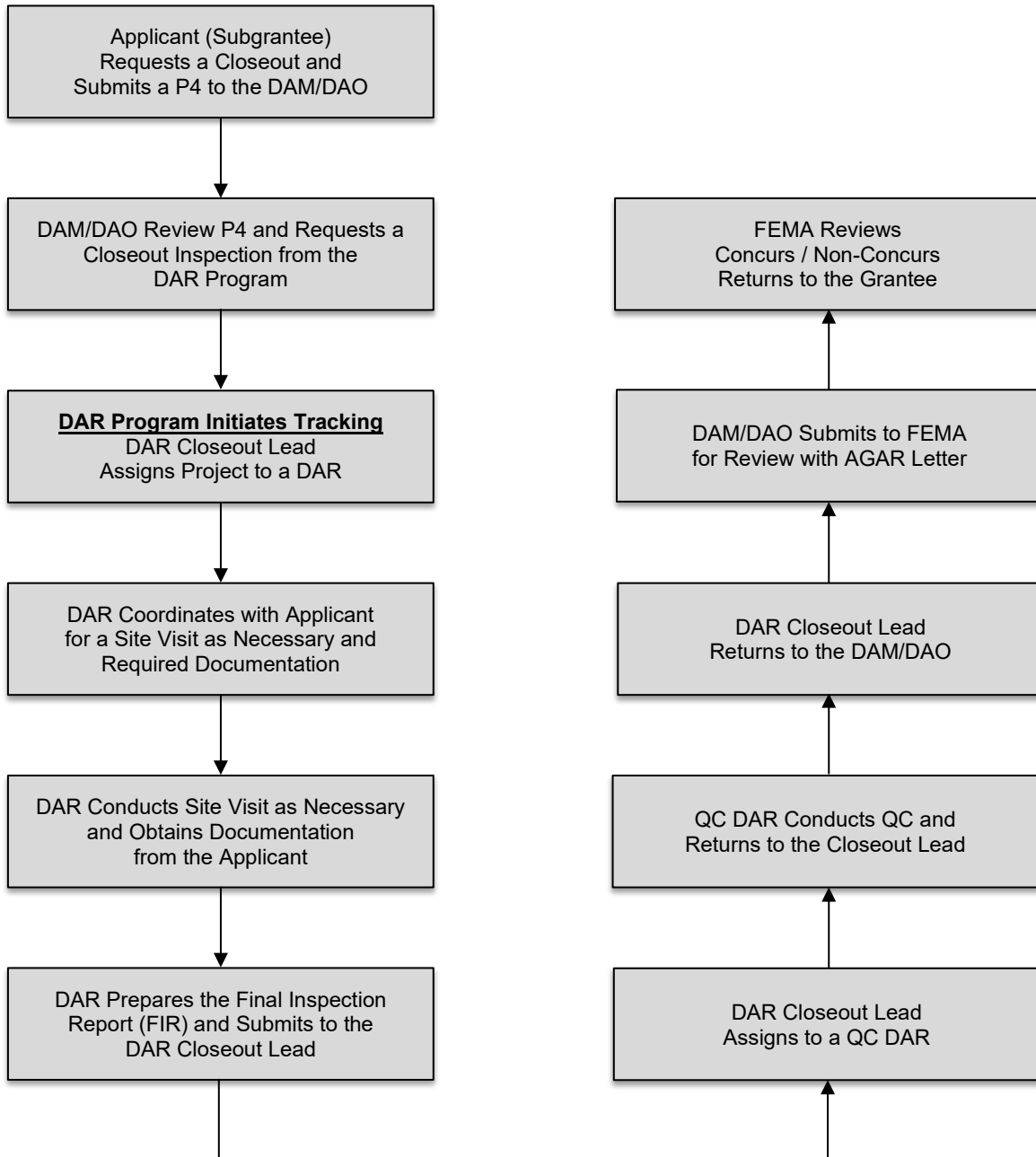
FEMA and the State will work to identify any emergency or disaster declarations programmatically closed and financially open with outstanding debt to collect and/or applicants to be paid. The State will provide detailed accounting of the outstanding debts. If warranted, the State may provide a Debt Collection Plan in coordination with FEMA's Grant Division.

FEMA and the State will work to identify issues/concerns associated with closure of all emergencies which have been open for more than two (2) years and disaster declarations which have been open for more than eight (8) years and within six months establish a plan for closure with specific milestones and an established target closure date.

DHSES will formally request that a Sub Recipient be closed when all of the projects for that Sub Recipient are closed.

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**CLOSEOUT PROCESS: FIELD OPERATIONS FLOWCHART FOR LARGE
PROJECT FINAL ACCOUNTING**



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The State Public Assistance Officer will coordinate the communication between FEMA and applicants.

FEMA and the State are committed to provide action or an adequate status update of requests within thirty (30) days of receipt of the formal correspondence or the informal inquiry. FEMA and the State will monitor the progress of the closeout process and revise or adjust the closeout processes as needed. A semi-annual meeting will be held with the State and FEMA senior management to discuss accomplishments, set goals, and evaluate the closeout process.

FEMA-State Closeout Process Management Milestones: At every milestone, the State and FEMA will analyze quarterly progress reports, hold a quarterly meeting to set performance measures and resolve issues, as well as close projects and Sub-Recipients as appropriate.

0- to 6-Month Milestone:

- Close all Sub-Recipients with no projects or “zero” funding unless additional time is needed and requested by Applicant

6-Month Milestone:

- Identify Sub-Recipients with only emergency work small projects without an approved Grantee time extension; coordinate to obtain closeout request(s) or time extensions
- Identify Sub-Recipients with only emergency work large and small projects without an approved time extension; coordinate final reconciliation(s)/time extension request(s)

6- to 12-Month Milestone:

- Coordinate to complete final reconciliation(s) of emergency work large projects that the Sub-Recipient completed within the regulatory timeframe

12- to 18-Month Milestone:

- Monitor quarterly progress reports to identify large projects that Sub-Recipients requiring time extensions or that have been identified as 100% work completed to coordinate final reconciliations/time extensions

18-Month Milestone:

- Identify Sub-Recipients with only emergency work and permanent work small projects that do not have a time extension and coordinate with Sub-Recipient to receive time extension requests, signed P.4s or conduct small project reconciliation
- Identify Sub-Recipients with only emergency work and permanent work large projects without an approved FEMA time extension, and coordinate further time extension or completion of final reconciliation

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18-to 48-Month Milestone:

- Coordinate with Sub-Recipients to complete Final Reconciliations for all projects that are identified as 100% complete
- Monitor and track permanent work projects with Grantee-approved time extensions
- Monitor time extension dates and work progress using Quarterly Progress Report
- Complete Final Reconciliation Report (FRR) and Large Project Final Accounting (LPFA) as Sub-Recipients close all large projects

+48-Month Milestone:

- Monitor and track projects with FEMA-approved or pending time extensions
- Coordinate closely with Sub-Recipients to ensure approved time extension deadlines can be met. Request additional extensions as appropriate
- Complete FRR as Sub-Recipients complete work/reach final approved extension deadlines

24. Insurance Requirements

As a condition for receiving Public Assistance for permanent work on insurable facilities, an Applicant must obtain and maintain insurance that is reasonable and necessary to cover the facility for the hazard that caused the damage. Such coverage must, at a minimum, be in the amount of the estimated eligible damages for that structure prior to any reduction.

The costs of § 406 hazard mitigation measures are included in the amount of insurance required. If the requirement to purchase insurance is not met, FEMA may de-obligate approved funds. If the Applicant does not maintain required insurance, FEMA will not provide any assistance for that facility in future disasters of the same type. An Applicant is exempt from this requirement for:

- Projects where the eligible damage (before any reductions) is less than \$5,000 or
- Facilities for which, in the determination of the State insurance commissioner, the type and/or extent of insurance being required by FEMA is not reasonable (This exemption does not apply to facilities insurable under the NFIP because insurance is both available and reasonable, however the State insurance commissioner may determine the cost of coverage above the amount available under a standard NFIP is not reasonable.)

44 CFR §§ 206.250-206-253 establish insurance requirements which apply to disaster assistance provided by FEMA. Prior to approval of a federal grant award for the repair, restoration, or replacement of an insurable facility or its contents damaged by a major disaster:

- Eligible costs shall be reduced by the amount of any insurance recovery actually received or anticipated, relating to eligible costs
- The full coverage available under the standard flood insurance policy from the National Flood Insurance Program (NFIP) will be subtracted from otherwise eligible costs for an insurable facility and its contents within the special flood hazard area

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- Assistance will not be provided under Section 406 of the Stafford Act for any facility for which assistance was provided because of a previous major disaster unless all insurance required by FEMA as a condition of previous assistance has been obtained and maintained. If the Applicant fails to obtain and maintain insurance, FEMA will deem all expenses ineligible (i.e., Deductible, damages in excess of NFIP limits, and flood damaged items not covered by standard NFIP policies)

If eligible damages are insurable and greater than \$5,000, an Applicant must obtain and maintain insurance to cover the assisted facility for the hazard that caused the major disaster in the amount of the eligible damage to the facility. If a facility has been damaged or destroyed, the Applicant may be unable to determine the amount of insurance necessary to satisfy the obtain and maintain insurance requirement until the project is awarded and final costs are determined. In such a situation, FEMA places a requirement in the PW stating that the Applicant must provide documentation regarding the insurance policy that is eventually obtained within a reasonable period of the completion of construction.

FEMA does not require Applicants to obtain or maintain insurance on temporary facilities, and the cost of insurance premiums (for temporary and other facilities) is not eligible for reimbursement. However, prudent risk management practices generally encourage appropriate coverage for hazard exposure at a facility. If a temporary facility is damaged in a non-federally declared event, FEMA will not repair or replace it.

The Applicant must provide a copy of the insurance policy for review (for large projects) prior to receipt of the final payment.

New York State is self-insured; provisions pertaining to self-insurance do apply as indicated below:

New York State is “self-insured” with regard to property insurance, including buildings, contents, vehicles and equipment. As part of the State’s self-insurance plan, the State has an enforceable commitment of funds to be used by the State for the repair or restoration of State-owned structures and their contents damaged as a result of flood-related losses. The State does purchase commercial property insurance on a limited number of buildings and Business Personal Property. (Specific to Leased Facilities and Specified Terms of Lease, Leased Vehicles Requiring Physical Damage Coverage).

New York State is exempt from the requirement of purchasing flood insurance coverage for State owned structures and their contents for which they have received FEMA Public Assistance funds, because the State has submitted a plan of self-insurance to the Federal Insurance Administrator that has been reviewed and judged to be adequate (44 CFR § 75.14). Standard NFIP reductions will be taken on State facilities as indicated in the flood insurance section below.

The Stafford Act permits the State to act as self-insurers for other types of insurance. The State has exercised its right to act as self-insurer for facilities damaged by other than floods (42 U.S.C. 5154(c)). Since the State is self-insured, state-owned facility

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cannot be made ineligible for lack of insurance purchase if another disaster strikes the same facility.

For damages other than flood, DHSES, in coordination with FEMA, will create and maintain a database of Obtain and Maintain Insurance (O&M) commitments for State facilities specifying the State Agency or Authority applicant, facility name, address and GPS location, type and amount of eligible damages, type of hazard, declared event and PW#/Project#. The database will be consulted during PDAs and project development to identify any existing O&M commitments to inform PDA reporting and project development, including the decision whether to forego a project for a particular State facility or identify the appropriate deduction on the Public Assistance claim based on the amount(s) and type(s) of any existing O&M commitment(s) for that facility. The database will be updated as projects for State facilities are closed out by FEMA to reflect any modification to the O&M commitment for that facility. The State will undertake, at its own expense, necessary repairs not covered by reimbursement under the Public Assistance Program.

FEMA policy FP 206-086-1 "Public Assistance Policy on Insurance" makes it clear that there are no pre-disaster insurance requirements for facilities that have not had any prior disaster assistance. All future losses for state self-insured facilities will be limited to those eligible costs that exceed the approved amount(s) in previous project worksheet(s).

Insurance Specialists reviewing a project/PW for State agencies can handle the project/PW as "self-insured". The future insurance requirements will be stated by referring the State's ability to self-insure, specifically, 42 U.S.C. 5154(c) and/or 44 CFR § 75.14 as applicable.

Additional Flood Insurance Requirements

Flood insurance is required by FEMA when it is reasonably available, adequate, and necessary even though a flood-damaged building may be located outside the base floodplain (Stafford Act § 311; 42 U.S.C. 5154).

Type, Extent, and Duration of Insurance

Assurances to obtain reasonably available, adequate, and necessary insurance will be required only for the type(s) of hazard for which the major disaster was declared. The FEMA Regional Administrator shall not require greater types and extent of insurance than are certified as reasonable by the New York State Department of Financial Services. Sub-Recipients are responsible for obtaining a certification from the State Insurance Commissioner as to the reasonableness and availability of commercial insurance for FEMA funded damages.

25. Time Limitations

Time limits are established for the completion of eligible work. They are set by regulation and begin from the declaration date of a major disaster or emergency. The initial deadlines are shown below by the category/type of work:

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- Debris removal (Category A) - 6 months
- Emergency Work (Category B) - 6 months
- Permanent work (Category C-G) - 18 months

The GAR may impose earlier deadlines for the completion of work, if appropriate (44 CFR §206.204(2)(i)).

26. Time Extensions

The State may grant a time extension to the period of performance for a project based on extenuating circumstances or unusual project requirements beyond the control of the subrecipient (44 CFR §206.204(c)(ii)). The State will review and determine such requests in Grants Portal.

The State may grant additional times as follows:

- Debris removal (Category A) - 6 months
- Emergency Work (Category B) - 6 months
- Permanent work (Category C-G) - 30 months

Requests for time extensions beyond the State's authority to approve must be submitted in writing to the Disaster Assistance Manager and DHSES will then formally submit that request with our recommendation to FEMA if the justification is adequate.

The FEMA RA may approve additional extensions. If the request is not approved, FEMA will inform the Applicant in writing of the decision, give reasons for disapproval, and outline the appeal procedures. Costs incurred beyond the approved period of performance date will not be eligible for reimbursement.

FEMA shall reconcile approved time extensions in EMMIE and Grants Manager/Grants Portal.

27. Project Completion

Upon completion of all approved work, the Applicant will be required to submit the Project Completion and Certification Report, the P.4, to DHSES certifying that all work has been completed in accordance with funding approvals and that all claims have been paid in full.

For large projects, the Applicant will be required to submit a project cost summary to DHSES that lists all labor, equipment, materials, and contract costs associated with performing the approved scope of work. DHSES will conduct a review of the project's documentation to validate the actual project cost. If a large project was 100% complete at the time the PW was prepared, the eligible cost was based on actual cost information including proof of payment and the Applicant is not claiming additional funding, no further review by the State will be necessary.

DHSES will forward the final inspection report with DHSES' recommended final payment to

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FEMA. If an approved project/PW is totally or partially de-obligated by FEMA, the DHSES Disaster Recovery Finance Officer will request recoupment of any funds previously made available to an Applicant as soon as possible.

28. Cost Overruns

Small Projects - FEMA will not adjust the cost of an individual small project unless the applicant failed to complete the approved scope of work, or the applicant requested additional funds for an eligible change to the scope of work; or the project contains inadvertent errors or omissions.

The applicant may also submit an appeal for a Net Small Project Overrun if the actual eligible costs for all of their small projects in a declaration combined exceed the total combined amount awarded for those projects. The Sub-Recipient has 60 days after completion of their last small project to submit this appeal to DHSES for reconciliation of small project cost overruns. The State will review the Applicant's appeal and forward the appeal with DHSES's recommendation to FEMA for final determination.

Large Projects – Per 44 CFR 206.205(b), the sub-recipient must evaluate each cost overrun and, when justified, submit a request for additional funding through the State to FEMA for a final determination. All requests will contain sufficient documentation to support the eligibility of all claimed work and costs. The State will include a written recommendation when forwarding the request. FEMA will notify the State in writing of the final determination.

29. Disputes/Conflict Resolution

To expedite funding and minimize Applicant appeals, the following conflict resolution process should be followed where active JFO operations are ongoing:

- If a Program Disaster Assistance Representative (PDAR) has been assigned, the Applicant should notify this individual of the unresolved issue.
- The PDAR should work to resolve the issue with the PDMG. If the issue remains unresolved, the PDAR should notify the State PAO.
- The State PAO will work to resolve the issue with the FEMA PAO. If the issue remains unresolved, the State PAO will notify the GAR and make a recommendation whether to hold a formal consensus review with the FCO.
- GAR may coordinate a consensus review meeting with the FCO and appropriate representatives from the Applicant. The intent of the meeting is to develop a reasonable resolution to avert the need for an appeal if possible.

30. Appeals

In accordance with 44 CFR §206.206, an Applicant may appeal any determination previously made by FEMA in relation to the Applicant's federal assistance, including a time extension determination made by the Grantee. The Applicant's complete appeal must be made in writing and submitted to the Grantee within 60 days after receipt or transmission (depending on the

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relevant disaster declaration date) of the notice of the action being appealed. The appeal must contain documented justification supporting the Applicant's position.

The Grantee will review, evaluate, and forward the appeal with a written recommendation to the FEMA Regional Administrator within the applicable deadline. Within 90 days of receipt of an appeal, the FEMA Regional Administrator will notify the Grantee, in writing, of disposition of the appeal or of the need for additional information. If additional information is required, the FEMA RA will notify the Grantee, in writing, of disposition within 90 days of receipt of such information.

If the RA denies the appeal, the Applicant may submit a second appeal to the Associate Director of FEMA. Such appeal must be made in writing and submitted through the Grantee and the FEMA RA not later than 60 days after receipt of the notice of the FEMA RA's denial of the first appeal.

The Associate Director will complete review and disposition of the Second Appeal according to the same time frame prescribed for the Regional Administrator review above. In appeals involving highly technical issues, the Associate Director may request independent scientific or technical recommendations from persons or groups with the appropriate expertise. The Associate Director will render a ruling within 90 days of receipt of such outside reports.

The Applicant has the option to go to arbitration in lieu of second appeal if certain conditions are met. This option is available where the disputed amount is \$500,000 or more (\$100,000 for rural areas with populations of less than 200,000), the first appeal was filed timely and was denied or partially denied by FEMA or FEMA has not rendered a decision within 180 days. The request is made by the Applicant directly to the Civilian Board of Contract Appeals.

Time periods for submitting First Appeals:

- Any FEMA determination - 60 days from the date of written notice of the determination being appealed.
- Net Small Project Overrun - 60 days from the date the applicant's last small project was completed.

31. Interim and Final Inspection

The GAR may request FEMA assistance for interim and final inspections. These inspections will resolve questions regarding work eligibility, cost overruns, time limits, and advances of funds, and obtain information to support recommendations for final payment amounts. Initial inspections may be required by the GAR when the first progress report is submitted. Subsequent inspections for requested progress payments will be scheduled with the Applicant. The quarterly report will be used to identify projects which may be ready for final inspections. When an Applicant identifies a project as 100% complete, the DAM/DAO will contact the applicant and request submission of their P.4 certifying all project requirements have been met and all funds are expended.

All large projects require a final inspection. Applicants must submit all necessary documentation,

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sufficient for the State to provide reasonable assurance that the non-federal entity is managing the federal award in compliance with federal statute, regulations, and the terms and conditions of the federal award, on all work for which reimbursement is requested prior to the final inspection. The DAM/DAO/SPAO reviews interim and final inspection reports, appeals, and determinations, when appropriate.

A final inspection will be conducted once the Applicant submits the P.4 and certifies to NYS DHSES that all funds were expended and that all work as described in the project scope of work is complete. The final inspection should be completed as soon as practical following receipt of the P.4 from the Applicant.

32. Audit Requirements

Audit requirements will be in accordance with 2 CFR, Part 200, 44 CFR, Part 13, or OMB Circular A-133, as appropriate.

Applicants expending more than \$750,000 in total Federal financial assistance in a fiscal year will be required to have an audit made in accordance with the Single Audit Act (31 U.S.C. §750; 2 CFR Subpart F).

Applicants will be required to provide the DHSES Fiscal Monitoring Unit a copy of the Single Audit.

The NYS Office of the State Comptroller arranges for an annual audit and prepares financial statements for the State indicating its financial position and is reviewed by each state agency for concurrence on a fiscal year basis.

Changes in net assets are reflected and agencies may be asked to identify the cause for the change depending on the value. A Schedule of Expenditures of Federal awards is also prepared on a fiscal year basis. It lists individual Federal programs by CFDA # and its expenditure data.

The State hires an independent auditor to conduct its audits and prepare a schedule of findings. The schedule will include findings for the current fiscal year and prior years if applicable, the appropriate fiscal year the findings resulted from, reference numbers the auditor assigns to the findings, corrective action plans to eliminate the finding and a status report on any remaining findings that may be carried over to the next fiscal year.

The State further issues management decision letters for audit findings on Federal awards it makes to its Sub-Recipients, a requirement under 2 CFR § 200.521(a) & (c). The letter will indicate if the finding is sustained, and any action needed in order to remit funding for any disallowed cost.

The audit along with the required data and reporting package will be submitted to the Federal Audit Clearinghouse by the Office of the State Comptroller.

33. Reports and Records

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Quarterly Progress Reports - As set forth in 2 CFR §200.301 and the FEMA-State Agreement, performance and financial measures are a requirement and DHSES will relate financial data to performance accomplishments of the award. This is achieved through a quarterly progress report prepared by FEMA for open, obligated large projects. The DHSES PA Office maintains records that reflect the current status of all projects to include those which have been closed out. The DHSES Disaster Recovery Finance Office maintains records of the financial status on each project for all grants. Pertinent information such as the status of open large projects, disbursements and drawdowns of federal funds is gathered from the databases and transferred to the FEMA quarterly progress report for submission back to FEMA Region II. DHSES will initiate Quarterly Reports on open large projects beginning with the first quarter following the closing of the JFO. Any changes to this established standard must be negotiated by the RA and DHSES, in accordance with 44 CFR §206.204(f).

Additionally, each Applicant is required to provide a quarterly report to the DAM/DAO on open, obligated large projects. The report indicates the status of all such projects and should provide the following information for each project:

- Percent complete
- Financial status (funds approved, disbursed, and changes in project costs)
- Projected date for completion of work
- Anticipated delays/problems

The first progress report due date will be as specified above. The DAM/DAO will inform the Applicants of the established date.

Sub-Recipient Closeout – DHSES will initiate Sub-Recipient closeout procedures when it determines that all applicable administrative and payment actions have been completed. The GAR concurs in writing that no further claims for the disaster will be made and that all program activity has been closed.

The closing of a grant does not preclude FEMA or DHSES from disallowing costs and recovering overpayments based on a subsequent audit or review. Any overpayment to the Grantee or to an Applicant shall constitute a debt to the awarding agency. A bill for collection, an administrative offset against other fund requests or other action permitted by law may be employed to reduce the debt.

The closeout of a grant does not affect:

- The federal agency's right to disallow costs and recover funds based on a subsequent audit or other review
- The Grantee's obligation to return any funds due because of subsequent refunds, corrections, or other transactions
- Records retention as required by 2 CFR § 200.334 or 44 CFR §13.42
- Property management requirements in 2 CFR §§ 200.313, 200.316 or 44 CFR §13.31 and §13.32
- Audit requirements in 2 CFR Part 200, Subpart F or 44 CFR §13.2

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The Grantee must submit financial, performance, and other reports as required by the grant within 120 days after the expiration of a grant (2 CFR § 200.344, 44 CFR 13.50(b)). If the Grantee does not materially comply with these requirements, 2 CFR § 200.339 and 44 CFR 13.43 provides remedies for noncompliance. These remedies may include temporarily withholding cash payments, suspending or terminating the current program award, or withholding further awards for the program.

Financial Status Reports (SF 425 and FFR 425 are required as of 10/01/2009) - The Grantee shall submit the financial reports to the FEMA Regional Office 30 days after the end of the first federal quarter following the initial grant award. Financial Reports will be submitted to FEMA at least quarterly thereafter for State administered disaster assistance programs authorized by the Stafford Act. Reports are due January 30, April 30, July 30 and October 30.

The GAR will submit a quarterly progress report to the FEMA RA, based on Applicant reports. The report will describe the status of all projects for which final payment has not been made. The GAR and FEMA RA review quarterly reports to identify projects that require special attention or inspection.

Project Documentation (Records Retention) - The Applicant will be required to keep complete records of all work (e.g., receipts, checks, job orders, contracts, equipment usage documentation and payroll information) funded under the PA Program for three years from the date that its project application is closed. During this three-year period, all approved projects/PWs are subject to State and Federal audit/review.

The Grantee and Applicants shall retain related records and documents for three years from the last official transaction or until audit questions are resolved, whichever is longer. FEMA, the Comptroller General of the United States, New York State, or any of their authorized representatives shall have the right to access any records pertinent to the Grant/Sub-Grant for as long as the records are retained.

34. Computer Use

The GAR and the State PAO will require computer equipment and software to assist in program management. Hardware and software equipment must be compatible with FEMA systems. This equipment will be used to:

- Send and receive correspondence
- Prepare training materials
- Access data
- Prepare reports

Computer equipment and software that have been purchased because of a major disaster declaration will be used in the Public Assistance Program until all program activities have ceased. These items may then be used in other program areas until the next disaster occur involving the Public Assistance Program.

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35. Training

The GAR and the State PAO will train PA Program Staff, including temporary employees, Applicant's agents, and State Inspectors. Training for Applicant's agents and State inspectors will be conducted annually and immediately following a major disaster declaration.

Training for State inspectors includes, but is not limited to:

- Work eligibility
- Grant Portal Project Formulation
- Codes and Standards
- Cost Code listings
- Final Inspection

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VI. PLAN DEVELOPMENT AND MAINTENANCE

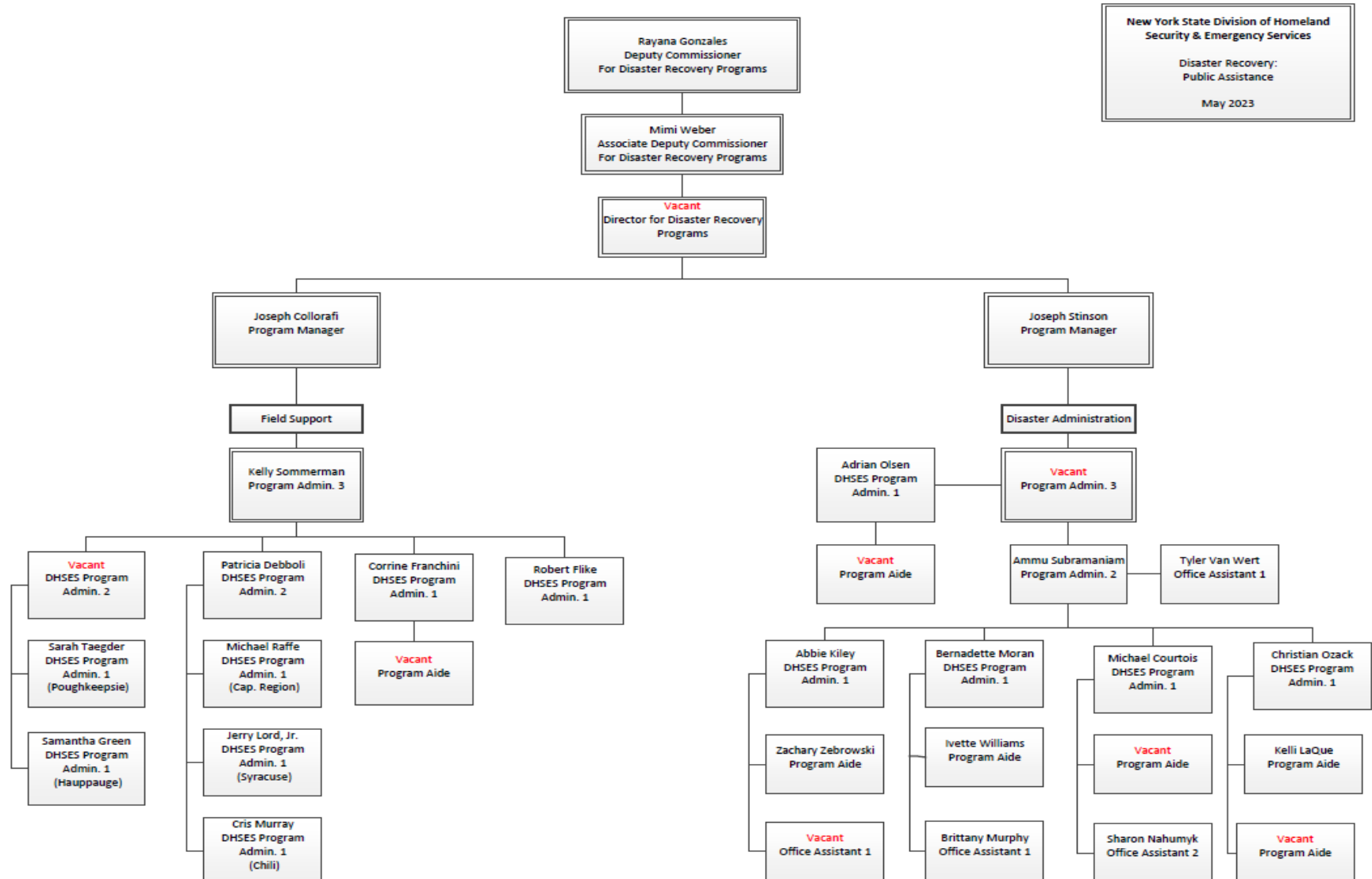
This Public Assistance Administrative Plan will be reviewed and updated annually. Revisions will be made to meet current policy guidelines, as required. Revisions will be forwarded to the Regional Administrator of FEMA. In the case where no changes are required, DHSES will notify FEMA Region II that the prior year plan remains in effect. The Grantee may request the Regional Administrator to provide technical assistance in the preparation of the Public Assistance Administrative Plan.

The State will amend this Public Assistance Administrative Plan whenever necessary to reflect current policy guidelines and any new or revised Federal statutes or regulations or a material change in any State's law, organization, policy, or State Agency operation that is relevant to the State's administration of the PA Program. The State will obtain FEMA approval of the amended plan and its effective date in accordance with 44 CFR §206.207(b)(iii)(k)(3).

VII. SCHEDULE OF ATTACHMENTS (44 CFR §206.207(b)(1)(iii)(J))

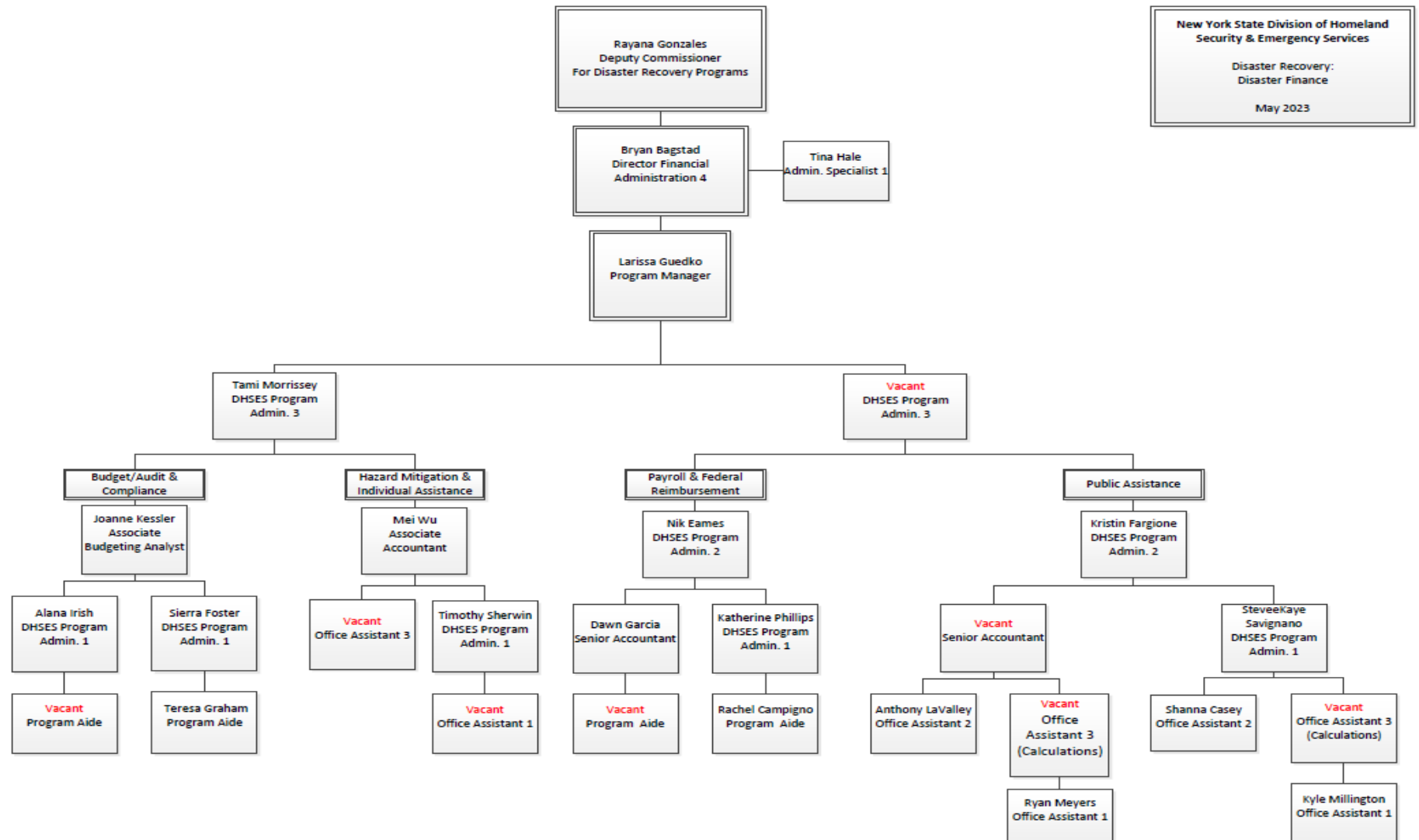
NEW YORK STATE ADMINISTRATIVE PLAN FOR PUBLIC ASSISTANCE

Attachment #1: Organizational Chart for Public Assistance



NEW YORK STATE ADMINISTRATIVE PLAN FOR PUBLIC ASSISTANCE

Attachment #2: Organizational Chart for Recovery Finance



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Attachment #3: Organizational Chart for Disaster Recovery Executive

