



OFFICE OF THE DIRECTOR  
GOVERNOR'S OFFICE OF EMERGENCY SERVICES  
3650 Schriever Avenue  
MATHER, CALIFORNIA 95655  
(916) 845-8506  
FAX: 845-8511



September 26, 2008

Rules Docket Clerk  
Office of Chief Counsel  
Federal Emergency Management Agency, Room 835  
500 C Street, SW  
Washington, DC 20472

Subject: Comments on the Interim Final Rule to Change 44 CFR Parts 206 and 207  
Docket ID FEMA-2006-0035 Management Costs

Dear Sir or Madam:

The Governor's Office of Emergency Services (OES) is responding to the third open comment period for the Management Costs Interim Rule. As stated in our previous comments, OES disagrees with the implementation of this rule as it certainly reduces the amount of funding available for the Public Assistance (PA) and Hazard Mitigation Grant Programs (HMGP).

California spans more than 155,959 square miles of coastline, desert, and mountainous terrain, that is both rural and densely populated. Because of this diverse topography, the disasters are more complex, costly, and recovery is slower. OES believes that FEMA has not taken into account the frequency and type of events that occur in California. Namely, throughout the state, there tends to be a cycle of fires, followed by mud and debris flows and flooding, causing damage to infrastructure and threatening the safety of the citizens of California. Although the winters are mild in comparison to the rest of the country, California's rainfall can result in severe flooding. In addition, Earthquakes occur approximately every five to six years, which divert the state's response and recovery activities from prior disasters due to the magnitude and complexity of these events.

With California's history of two major declarations per year, there is a tremendous burden placed on the state's resources. The Interim Rule places an even greater strain on a fragile system. The flat rate and cap for the reimbursement of grant management costs for major and emergency declarations clearly shifts the burden for disaster management to the state rather than a joint partnership between the state and federal governments.

The change from the previous sliding scale rule for grant and subgrant administration costs only complicates the administration of disasters. OES has chosen not to pass any administrative allowance through to subgrantees because the flat rate for reimbursement of management costs is clearly not enough for even the state's costs for grant administration. Further, under the previous rule, the subgrantee administrative allowance was automatically calculated and obligated, which simplified the recordkeeping for all parties.

To keep management costs to a minimum, OES has and continues to use its force account rather than consultants for engineering, environmental compliance, and administration of the grant programs, resulting in costs savings. Administering the new rule will impede OES ability to monitor the subgrantee's activities to assure compliance with applicable Federal Rules Docket Clerk requirements and achievement of performance goals. OES monitoring must cover each program, function and/or activity in accordance with Title 44 of the Code Federal Regulations, Section 13.40(a). This can result in a potential loss of funding to OES and the subgrantee when Federal deadlines are not met due to the increased workloads.

To encourage proper grant management and timely grant closeout, FEMA changed the six-year time limit from the proposed rule to eight-years in the Interim Rule. While this increased the timeframe, OES believes it does not take into account catastrophic events such as the Northridge Earthquake (DR-1008) and the Loma Prieta Earthquake (DR-845). In these events, projects remain open more than fourteen years post event. In addition, the costs have far exceeded \$781 million, thus making the \$20 million cap insufficient for management costs.

On average, OES administrative costs are approximately ten percent, which is consistent with other grant programs administered by the Department of Homeland Security. Under the Interim Rule, OES estimates that the grantee and subgrantee management costs (federal portion) for the last eight disasters (DR-1498 through DR-1731) are approximately \$65,123,615. If the Interim Rule was applied, OES would only receive \$23,908,544 for these costs, leaving OES with unreimbursed disaster costs in the amount of \$41,215,070.

In summation of OES' previous comments, California recommends that FEMA discontinue using the Interim Rule (Section 324) and re-implement the previous method of reimbursing grantee and subgrantee management costs or increase the flat rate to ten percent.

If you have any questions regarding these comments or need additional information, please contact Mr. Tom Maruyama, Deputy Director at (916) 845-8535.

Sincerely,

A handwritten signature in black ink, appearing to read 'H. Renteria', written in a cursive style.

HENRY R. RENTERIA  
Governor's Authorized Representative