

Chapter 118-09 WAC

CRITERIA FOR ELIGIBILITY AND ALLOCATION OF EMERGENCY MANAGEMENT ASSISTANCE FUNDS

WAC

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WAC 118-09-010 Purpose. The purpose of this chapter is to establish eligibility and allocation criteria to be applied by the director in allocating emergency management assistance (EMA) funds to emergency management organizations (EMOs). The EMA funds are to supplement and enhance, not supplant, existing EMO dedicated emergency management budgeted funding. EMA funds will be used to both sustain and enhance emergency management capabilities of an EMO.

[Statutory Authority: RCW 38.52.005. WSR 14-09-027, § 118-09-010, filed 4/9/14, effective 5/10/14. Statutory Authority: RCW 38.52.160. WSR 84-01-022 (Order 118-09), § 118-09-010, filed 12/9/83. Formerly WAC 118-10-010.]

WAC 118-09-020 Definitions. (1) "Advisory group" means a group comprised of local, tribal, and state emergency management professionals that shall advise the director.

(2) "Comprehensive emergency management plan (CEMP)" means a current, verified emergency plan as required by chapter 118-30 WAC.

(3) "Director" means the director of the emergency management division (EMD) of the Washington state military department.

(4) "Emergency management functions" means the governmental function that coordinates and integrates activities necessary to build, sustain, and improve the capability to prepare for, protect against, respond to, recover from, or mitigate against threatened or actual emergencies or disasters whether natural, technological, acts of terrorism, or other human caused.

(5) "Emergency management organization (EMO)" means the local organization for emergency management established pursuant to RCW 38.52.070(1). EMO also means organizations established by a federally recognized Indian tribe located within the boundaries of the state of Washington that perform emergency management functions as part of that tribe.

(6) "Emergency operations center (EOC)" means the central location or facility responsible for coordinating multi-jurisdictional or multidisciplinary response activities related to an emergency or disaster, and may also be referred to by other names such as an emergency coordination center (ECC).

(7) "Emergency" or "disaster" means an event or set of circumstances which:

(a) Demands immediate action to preserve public health, protect life, protect public property, or to provide relief to any stricken community overtaken by such occurrences; or

(b) Reaches such a dimension or degree of destructiveness as to warrant the governor proclaiming a state of emergency pursuant to RCW 43.06.010.

(8) "Emergency management assistance funds" or "EMA funds" means:

(a) Emergency Management Performance Grant (EMPG) funds administered by the Federal Emergency Management Agency (FEMA) under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 et seq.;

(b) Any successor/supplemental federal emergency management assistance funds available for allocation to EMOs to both sustain and enhance emergency management capabilities statewide; and

(c) State funds provided to the department by the legislature solely for the purposes of allocation under this chapter to EMOs for both sustaining and enhancing emergency management capabilities statewide.

[Statutory Authority: RCW 38.52.005. WSR 14-09-027, § 118-09-020, filed 4/9/14, effective 5/10/14. Statutory Authority: RCW 38.52.160. WSR 84-01-022 (Order 118-09), § 118-09-020, filed 12/9/83. Formerly WAC 118-10-020.]

WAC 118-09-030 Eligibility criteria. An EMO is eligible to receive EMA funds if the following criteria is met by the EMO prior to the beginning of the application period for which the EMA funds are sought:

(1) Have a current CEMP, or schedule for plan development or maintenance, verified by the director.

(2) Have at least a half-time employee whose job duties are specifically dedicated to performing emergency management functions.

(3) Have a designated emergency management agency, department, division, or office established with a dedicated budget to perform emergency management functions.

(4) Have adopted an ordinance, code, or resolution establishing the EMO. Additionally, an EMO that consists of two or more political subdivisions (cities/towns) shall have an executed interlocal agreement establishing the multijurisdictional EMO.

(5) Hire and appoint personnel in accordance with applicable employment laws, rules, regulations, and policies.

(6) Comply with all federal and state emergency management program requirements.

(7) Demonstrate that EMA funds will only be used to both sustain and enhance the EMO's existing emergency management program and capabilities.

(8) Demonstrate that EMA funds will not be used to supplant or replace EMO existing dedicated emergency management budgeted funding.

(9) Meet all applicable matching fund requirements for receipt of EMA funding.

(10) If an EMO fails to meet each of the criteria in subsections (1) through (9) of this section, the director may withhold from the EMO any EMA funds for the balance of the funding period and future funding cycles to the extent the director determines will encourage sustained and enhanced statewide emergency management functions consistent with federal and state emergency management program requirements.

[Statutory Authority: RCW 38.52.005. WSR 14-09-027, § 118-09-030, filed 4/9/14, effective 5/10/14. Statutory Authority: RCW 38.52.160. WSR 84-01-022 (Order 118-09), § 118-09-030, filed 12/9/83. Formerly WAC 118-10-030.]

WAC 118-09-040 Allocation of funds. EMA funds shall be allocated to eligible EMOs as prescribed in this section.

(1) **EMPG funds and successor/supplemental federal emergency management assistance funds:** EMPG and successor/supplemental federal emergency management assistance funds shall be allocated to eligible EMOs on a per capita basis modified by the allocation methodology set forth in this subsection. Per capita determinations for county and city EMOs shall be based on the official population estimates annually established by the Washington state office of financial management (OFM) under RCW 43.62.020. Per capita determinations for tribal EMOs shall be based on the population estimates established by the OFM Small Area Estimates Program for tribal areas.

(a) EMD is to retain the federally authorized percentage of these funds for Management and Administration (M&A). From the remaining amount, the director shall determine the amount of funding available for EMD operational costs and allocation to EMOs in consultation with the advisory group.

(b) The process for determining allocations to EMOs is a two-step process. First, the amount of funding allocated to least populated counties is to be determined in accordance with this subsection. Second, the amount of funding allocated for the least populated counties is to be subtracted from the total amount of funding available for allocation to EMOs. The remainder is the amount of funding available for allocation to the remaining counties, cities in those counties and to tribes, which will be allocated on a per capita basis.

(c) Minimum amount that will be awarded. Under the allocation methodology set forth in this subsection:

(i) No county or city EMO will receive an award of these funds unless it qualifies for an award of at least ten thousand dollars;

(ii) No county or city EMO will receive an award of these funds unless it can provide a fifty percent match of at least ten thousand dollars; and

(iii) No city located in a least populated county will receive an award of these funds.

These limitations do not apply to tribal EMOs.

(d) Allocation methodology. The amount of funding available to EMOs will be allocated to least populated counties as follows:

(i) Special consideration is to be given to least populated counties due to the diverse population range of counties in the state. These counties would not benefit from a per capita allocation. Except as provided in (d)(iv) of this subsection, least populated counties are those counties that will not receive at least eighteen thousand dollars in funding using a per capita allocation.

(ii) Least populated counties shall receive an allocation of EMPG and successor/supplemental federal funding in an amount to be determined by the director consistent with this subsection. These counties meeting eligibility requirements need assurance of a reliable level of such funding, with the target amount of funding being at least eighteen thousand dollars. The intent is for the award amount combined with the fifty percent match requirement to allow for employment of a half-time dedicated emergency management professional.

(iii) The amount selected for allocation to least populated counties beyond the target amount is to be commensurate with the amount of these funds available for statewide county and city EMO funding, except as limited by (d)(v) of this subsection. For example, if the amount of these funds available for allocation to county and city EMOs increases, allocations to the least populated counties will be proportionately increased, except as limited by (d)(v) of this subsection.

(iv) If the amount selected for allocation to least populated counties is greater than eighteen thousand dollars, that amount shall be used for determining what counties are designated as a least populated county for purposes of this subsection.

(v) These counties shall not receive awards greater than counties that do not fall into this category.

(vi) To preserve the minimal amount of funding available to these counties, cities located within these counties shall not be allocated EMPG or successor/supplemental federal funds. These cities shall collaborate with their county to sustain and improve emergency management programs and capabilities.

(e) Match requirements:

(i) The EMO shall meet all matching fund requirements associated with receipt of the funds only through a hard, dollar-for-dollar, match from a dedicated EMO emergency management budgeted fund;

(ii) The match shall not include any funds otherwise prohibited for such use by federal funding requirements; and

(iii) If an EMO is unable to meet the matching fund requirements, its award will be reduced to the amount it is able to meet, but no award shall be made to a county or city EMO unless it can provide a fifty percent match of at least ten thousand dollars.

(iv) Examples:

(A) If an EMO allocation is eighteen thousand dollars but only a match of eleven thousand dollars can be met, the award will be reduced to eleven thousand dollars.

(B) If a county or city EMO allocation is eighteen thousand dollars but a match of only nine thousand five hundred dollars can be met, the award will be zero.

(f) Phase-in of funding methodology: During each of the first three years following the effective date of this rule, application of this allocation methodology shall create no more than a thirty-three percent incremental change each year from the federal fiscal year 2012 EMPG allocation until

fully implemented in the third year, at which time this subsection shall cease to apply. The 2012 allocation is to be used as the base year for purposes of the phase-in calculations. EMOs that received one-time funding increases in 2012 will have their implementation base reduced by that amount for purposes of calculating the thirty-three percent incremental change each year.

(2) **Other EMA funding:** To the extent consistent with state law establishing, authorizing, and appropriating state funds available for allocation to EMOs for both sustaining and enhancing emergency management capabilities statewide, such funds shall be allocated by applying the methodology in subsection (1) of this section, as applicable.

(3) **Unspent funding:** Any allocated EMA funds not expended by, or accepted by, an EMO shall be reallocated among remaining eligible EMOs as the director determines will best sustain and enhance statewide emergency management capabilities.

(4) **Review:** The EMPG allocation methodology shall be reviewed at least every five years.

[Statutory Authority: RCW 38.52.005. WSR 14-09-027, § 118-09-040, filed 4/9/14, effective 5/10/14. Statutory Authority: RCW 38.52.160. WSR 84-01-022 (Order 118-09), § 118-09-040, filed 12/9/83.]

WAC 118-09-050 Appeal and review. (1) **Appeal:** An EMO may appeal to the director to reconsider eligibility determinations and the amount of EMA funds allocated if it believes the determination is inconsistent with the criteria. Such appeal must be made in writing setting forth the specific reasons for the appeal and be received by the director **within fifteen calendar days** following receipt by the EMO of notification of the EMA fund allocation.

(2) **Review and response:** The director shall respond to the EMO in writing **within fifteen calendar days** of receipt of the written appeal. The director's response shall uphold or modify the eligibility determination or allocation for EMA funds and describe the reasons for the decision. The decision of the director shall be final.

[Statutory Authority: RCW 38.52.005. WSR 14-09-027, § 118-09-050, filed 4/9/14, effective 5/10/14. Statutory Authority: RCW 38.52.160. WSR 84-01-022 (Order 118-09), § 118-09-050, filed 12/9/83.]

WAC 118-09-060 Advisory group. The director shall consult with the advisory group on the following:

(1) Activities that will both sustain and enhance statewide emergency management capabilities for purposes of reallocating EMA funds;

(2) Potential changes to the percentage of EMA funds EMD retains for M&A costs and operational costs;

(3) Potential changes to the percentage of EMA funds available to pass through to EMOs;

(4) The amount of EMA funding available for allocation for least populated counties and additional funding for tribal EMOs;

(5) Review of the allocation methodology at least every five years; and

(6) Other related issues at the request of the director.

[Statutory Authority: RCW 38.52.005. WSR 14-09-027, § 118-09-060, filed 4/9/14, effective 5/10/14.]