

## CHAPTER 12B

### PUBLIC DISASTER ASSISTANCE

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#### 12B.10 PUBLIC DISASTER ASSISTANCE; ABSENT FEDERAL AID.

This chapter establishes a state public assistance program to provide cost-share assistance to local governments that sustain significant damage on a per capita basis but are not eligible for federal disaster assistance or corresponding state assistance under chapter 12A.

**History:** 2014 c 312 art 8 s 1

#### 12B.15 DEFINITIONS.

Subdivision 1. **Application.** The definitions in this section apply to this chapter.

Subd. 2. **Applicant.** "Applicant" means a local government, state government agency, or utility cooperative that applies for state disaster assistance under this chapter.

Subd. 3. **Commissioner.** "Commissioner" means the commissioner of public safety.

Subd. 3a. **County.** "County" or "county government" means each county in which a governmental unit is located in whole or in part, or a county board of commissioners as defined in chapter 375.

Subd. 4. **Director.** "Director" means the director of the Division of Homeland Security and Emergency Management in the Department of Public Safety.

Subd. 5. **Disaster.** "Disaster" means any catastrophe, including but not limited to a tornado, storm, high water, wind-driven water, tidal wave, earthquake, volcanic eruption, landslide, mudslide, snowstorm, or drought or, regardless of cause, any fire, flood, or explosion.

Subd. 6. **FEMA.** "FEMA" means the Federal Emergency Management Agency.

Subd. 7. **Incident period.** "Incident period" means the time interval of a disaster as delineated by specific start and end dates.

Subd. 8. **Local government.** "Local government" has the meaning given in section 12.03, subdivision 5d.

**History:** 2014 c 312 art 8 s 2; 2015 c 65 art 7 s 2,3; 2017 c 95 art 3 s 3

#### 12B.25 ELIGIBILITY CRITERIA; CONSIDERATIONS.

Subdivision 1. **Payment required; eligibility criteria.** The director, serving as the governor's authorized representative, may enter into grant agreements with eligible applicants to provide state financial assistance made available as a result of a disaster that satisfies all of the following criteria:

(1) the state or applicable county government declares a disaster or emergency during the incident period;

(2) damages suffered and eligible costs incurred are the direct result of the disaster;

(3) federal disaster assistance is not available to the applicant because the governor did not request a presidential declaration of major disaster, the president denied the governor's request, or the applicant is not eligible for federal disaster assistance because the state or county did not meet the per capita impact indicator under FEMA's Public Assistance Program;

(4) the applicant incurred eligible damages that, on a per capita basis, equal or exceed 50 percent of the countywide per capita impact indicator under FEMA's Public Assistance Program;

(5) the applicant assumes responsibility for 25 percent of the applicant's total eligible costs; and

(6) the applicant satisfies all requirements in this chapter.

Subd. 2. **Considerations; other resources available.** When evaluating applicant eligibility under subdivision 1, the director must consider:

(1) the availability of other resources from federal, state, local, private, or other sources; and

(2) the availability or existence of insurance.

**History:** 2014 c 312 art 8 s 3; 2015 c 65 art 7 s 4

### 12B.30 ELIGIBLE COSTS.

Subdivision 1. **Eligible costs.** Costs eligible for payment under this chapter are those costs that would be eligible for federal financial assistance under FEMA's Public Assistance Program.

Subd. 2. **Ineligible costs.** Ineligible costs are all costs not included in subdivision 1, including but not limited to:

(1) ordinary operating expenses, including salaries and expenses of employees and public officials that are not directly related to the disaster response;

(2) costs for which payment has been or will be received from any other funding source;

(3) disaster-related costs that should, in the determination of the director, be covered and compensated by insurance; and

(4) projects and claims totaling less than the minimum FEMA project threshold.

**History:** 2014 c 312 art 8 s 4

### 12B.35 APPLICANT'S SHARE.

An applicant's share of eligible costs incurred must not be less than 25 percent. The substantiated value of donated materials, equipment, services, and labor may be used as all or part of the applicant's share of eligible costs, subject to the following:

(1) all items and sources of donation must be indicated on the application and any supporting documentation submitted to the commissioner;

(2) the rate for calculating the value of donated, nonprofessional labor is the prevailing federal minimum wage;

(3) the value of donated equipment may not exceed the highway equipment rates approved by the commissioner of transportation; and

(4) the value of donated materials and professional services must conform to market rates and be established by invoice.

**History:** 2014 c 312 art 8 s 5

#### **12B.40 APPLICATION PROCESS.**

(a) The director must develop application materials and may update the materials as needed. Application materials must include instructions and requirements for assistance under this chapter.

(b) A county government has 30 days from the end of the incident period or the president's official denial of the governor's request for a declaration of a major disaster to request that the governor declare a state disaster. The director may deny a late request. The county government's request for a state disaster declaration must include:

(1) the cause, location of damage, and incident period;

(2) documentation of a local, tribal, county, or state disaster or emergency declaration in response to the disaster;

(3) a description of damages, an initial damage assessment, and the amount of eligible costs incurred by the applicant;

(4) a statement or evidence that the applicant has the ability to pay for at least 25 percent of total eligible costs incurred from the disaster; and

(5) a statement or evidence that the local government has incurred damages equal to or exceeding 50 percent of the federal countywide threshold in effect during the incident period.

(c) An applicant has 60 days from the governor's declaration of a state disaster to submit a complete application for state public disaster assistance to the director.

(d) The director must review the application and supporting documentation for completeness and may return the application with a request for more detailed information. The director may consult with local public officials to ensure the application reflects the extent and magnitude of the damage and to reconcile any differences. The application is not complete until the director receives all requested information.

(e) If the director returns an application with a request for more detailed information or for correction of deficiencies, the applicant must submit all required information within 30 days of the applicant's receipt of the director's request. The applicant's failure to provide the requested information in a timely manner without a reasonable explanation may be cause for denial of the application.

(f) The director has no more than 60 days from the receipt of a complete application to approve or deny the application, or the application is deemed approved. If the director denies an application, the director must send a denial letter. If the director approves an application or the application is automatically deemed approved after 60 days, the director must notify the applicant of the steps necessary to obtain reimbursement of eligible costs, including submission of invoices or other documentation substantiating the costs submitted for reimbursement.

**History:** 2014 c 312 art 8 s 6; 2015 c 65 art 7 s 5

**12B.45 CLAIMS PROCESS.**

Subdivision 1. **Claims; appeal.** (a) An applicant must submit to the director completed claims for payment of actual and eligible costs on forms provided by the director. All eligible costs claimed for payment must be documented and consistent with the eligibility provisions of this chapter.

(b) If the director denies an applicant's claim for payment, the applicant has 30 days from receipt of the director's determination to appeal in writing to the commissioner. The appeal must include the applicant's rationale for reversing the director's determination. The commissioner has 30 days from receipt of the appeal to uphold or modify the director's determination and formally respond to the applicant. If, within 30 days of receiving the commissioner's decision, the applicant notifies the commissioner that the applicant intends to contest the commissioner's decision, the Office of Administrative Hearings shall conduct a hearing under the contested case provisions of chapter 14.

Subd. 2. **Final inspection.** Upon completion of all work by an applicant, the director may inspect all work claimed by the applicant. The applicant must provide the director with access to records pertaining to all claimed work and must permit the director to review all records relating to the work.

Subd. 3. **Closeout.** The director must close out an applicant's disaster assistance application after all of the following occur:

- (1) eligible work is complete;
- (2) the applicant receives the final amount due or pays any amount owed under section 12B.50; and
- (3) any extant or scheduled audits are complete.

Subd. 4. **Audit.** (a) An applicant must account for all funds received under this chapter in conformance with generally accepted accounting principles and practices. The applicant must maintain detailed records of expenditures to show that grants received under this chapter were used for the purpose for which the payment was made. The applicant must maintain records for five years and make the records available for inspection and audit by the director or the state auditor. The applicant must keep all financial records for five years after the final payment, including but not limited to all invoices and canceled checks or bank statements that support all eligible costs claimed by the applicant.

(b) The director or state auditor may audit all applicant records pertaining to an application or payment under this chapter.

Subd. 5. **Reporting payments.** The director must post on the division website a list of the recipients and amounts of the payments made under this chapter.

**History:** 2014 c 312 art 8 s 7

**12B.50 FUNDING FROM OTHER SOURCES; REPAYMENT REQUIRED.**

If an applicant subsequently recovers eligible costs from another source after receiving payment under this chapter, the applicant must pay the commissioner an amount equal to the corresponding state funds received within 30 days. The commissioner must deposit any repayment in the disaster response contingency account in section 12.221, subdivision 6.

**History:** 2014 c 312 art 8 s 8