

801 CMR: EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE

801 CMR 29.00: Disaster Relief and Resiliency Fund

Section

29.01: General Provisions

29.02: Definitions

29.03: Eligible Recipient Categories

29.04: Eligible Events and Triggers

29.05: Eligible Uses of Funds and Categories

29.06: Information Collection and Damage Assessment Process

29.07: Prioritization Criteria and Award Determination

29.08: Forms of Assistance

29.09: Appeals Process

29.10: Guidance and Updates

29.01: General Provisions

Scope. 801 CMR 29.00 is promulgated pursuant to M.G.L. c. 29 § 2HHHHHH for the purpose of establishing the administration of funds from the Disaster Relief and Resiliency Fund (the Fund) and providing a structured, transparent, equitable, and timely process to deliver emergency disaster relief and alleviate the damage, loss, hardship, or suffering caused by a natural or other catastrophic event and enhancing protections from the impacts of future events.

Administration. The Fund shall be administered by the Secretary of the Executive Office for Administration and Finance (A&F), in consultation with the Massachusetts Emergency Management Agency (MEMA) and, when appropriate, the Office of Climate Innovation and Resilience (OCIR), and the Executive Office of Energy and Environmental Affairs (EOEEA).

Purpose. The regulations establish procedures governing activation of the Fund, eligible recipients, eligible uses of funds, damage assessment processes, prioritization criteria, and administrative procedures for the distribution of financial assistance.

29.02: Definitions

For the purposes of 801 CMR 29.00, the following terms have the following meanings:

Agricultural Operation. A commercial enterprise located within the Commonwealth that is principally and substantially engaged in production of agriculture as defined in M.G.L. c. 128 § 1A.

Business. A corporation, partnership, firm, unincorporated association or other entity engaging or proposing to engage in economic activity within the Commonwealth and any affiliate thereof which is subject to taxation under M.G.L. c. 62 or M.G.L. c. 63.

Catastrophic event. A natural or other destructive event, including, but not limited to hurricanes, tornadoes, storms, extreme rain, flood, tidal waves, earthquakes, landslides, mudslides, wildfires, snowstorms, extreme wind, extreme temperature, explosions, catastrophic agricultural loss, fire, drought, or other events causing damage or hardship within the Commonwealth.

Fund. The Disaster Relief and Resiliency Fund established pursuant to M.G.L. c. 29 § 2HHHHHH.

Individual. An individual with established residency in the Commonwealth at least six months prior to a relevant catastrophic event.

Initial Damage Assessment (IDA). A standardized process conducted by the MEMA's Disaster Recovery Unit to assess the scope and scale of damage following a catastrophic event, as described by MEMA's Comprehensive Emergency Management Plan (CEMP) and supportive recovery plans.

Municipality. Any city or town of the Commonwealth of Massachusetts.

Non-profit organizations. A nonprofit corporation organized under M.G.L. c. 180 or otherwise recognized as tax-exempt under Internal Revenue Code 501(c)(3).

Secretary. The Secretary of the Executive Office for Administration and Finance.

29.03: Eligible Recipient Categories

The following entities are eligible for financial assistance from the Fund:

- (a) Municipalities, and other units and instrumentalities of state, local, tribal, and regional government;
- (b) Non-profit organizations operating within the Commonwealth;
- (c) Businesses operating within the Commonwealth; and
- (d) Individual residents of the Commonwealth.

29.04: Eligible Events and Triggers

IDA Activation Criteria. Following a catastrophic event, MEMA shall conduct an IDA to collect preliminary information regarding damages under the following circumstances:

- (a) The Governor declares a State of Emergency and requests an IDA; or
- (b) A MEMA Rapid Impact Assessment Team recommends an IDA; or
- (c) MEMA and A&F determine that an IDA is necessary after multiple impactful events in a similar geographic area in close time proximity; or
- (d) Any two of the following conditions are met for a single event:
 - 1. Multiple municipalities declare local states of emergency;
 - 2. Multiple municipalities activate their local Emergency Operations Centers (EOC) and their local CEMPs;

3. Multiple municipalities submit validated resource requests electronically through MEMA's existing platform, WebEOC, or any successor platform as determined by MEMA; or
4. Multiple municipalities activate emergency staffing capabilities beyond emergency staffing of police and fire personnel.

Fund Activation Criteria.

- (a) Standard Activation: Following an IDA, the Secretary may activate the Fund when the following 2 conditions are satisfied:
 1. The IDA indicates that disaster-related damages exceed a state-established per-capita impact threshold across multiple affected municipalities; and
 2. At least one of the following circumstances applies:
 - i. Federal disaster assistance thresholds are not met, but multiple municipalities have met or exceeded the state-established per-capita impact threshold.
 - ii. A federal disaster declaration is made, but specific impacted municipalities or counties are excluded from the declaration due to federal eligibility criteria shortfalls.
 - iii. A federal disaster declaration request where the state-established per-capita impact threshold has been met is submitted but denied.
- (b) Extraordinary Circumstances: Notwithstanding the criteria above, in extraordinary circumstances, the Governor may activate the fund pursuant to a declared State of Emergency related to a catastrophic event.

29.05: Eligible Uses of Funds and Categories

General Requirements. Eligible costs shall:

- (a) Result directly from the catastrophic event;
- (b) Address damages located within the affected geographic area;
- (c) Be the legal responsibility of the eligible recipient;
- (d) Not be the result of negligence or failure of the eligible recipient to maintain property or perform specific state-recommended remediation measures;
- (e) Address conditions that pose a threat to public safety, health, or the continuity of essential services;
- (f) Include practicable resilience measures. The expectation that eligible recipients include practicable resiliency measures shall consider factors including, but not limited to, cost and technological feasibility and does not preclude funding for: (i) activities necessary to address conditions that pose a threat to public safety, health, or the continuity of essential services; (ii) temporary stabilization measures such as temporary housing or rehousing; or (iii) activities directed by the Governor pursuant to a declared State of Emergency under 29.04(b); and
- (g) Not duplicate any other sources of assistance.

Eligible uses of the Fund vary by recipient type.

Municipalities and Other Units and Instrumentalities of State, Local, Tribal, or Regional Government. Eligible uses may include, but are not limited to:

- (a) Debris removal necessary to eliminate immediate threats or to restore safe access;
- (b) Emergency protective measures and temporary stabilization;
- (c) Repair or restoration of roads, bridges, culverts, stormwater, and other water-control systems;
- (d) Repair or reconstruction of damaged public or non-profit owned buildings, facilities, and building systems;
- (e) Repair or replacement of essential equipment or contents required for public or nonprofit operations; and
- (f) Restoration of public utilities, including but not limited to water, wastewater, septic, electrical, gas, telecommunications, and broadband.

Non-Profit Organizations and Businesses. Eligible uses may include, but are not limited to:

- (a) Emergency stabilization and repairs necessary to secure property or prevent further damage;
- (b) Restoration of utilities and essential services necessary for safety; and
- (c) Repair or reconstruction of damaged operational structures and associated building systems.

Agricultural Operation. Eligible uses may include, but are not limited to:

- (a) Repair or replacement of damaged agricultural infrastructure;
- (b) Restoration of farmland affected by flooding or other disasters;
- (c) Repair of irrigation, drainage, or farm utility systems; and
- (d) Replacement of essential agricultural equipment.

Individuals. Eligible uses may include, but are not limited to:

- (a) Emergency stabilization and repairs necessary to address unsafe or uninhabitable conditions in a primary residence;
- (b) Measures to restore habitability, including septic or well repairs, mold remediation, and essential utility restoration;
- (c) Repair or reconstruction of damaged residential structures and essential building systems; and
- (d) Temporary housing and rehousing costs necessary due to displacement from a catastrophic event.

Compliance with Applicable Standards. Repairs, reconstruction, or other work supported by assistance from the Fund shall be conducted in a manner consistent with applicable federal, state, and local laws, regulations, codes, standards, and, if practicable, best management practices as identified in guidance.

29.06: Information Collection and Damage Assessment Process

Eligible recipients seeking assistance must participate in MEMA's IDA process or a successor process as determined by MEMA. The IDA process will be coordinated through impacted

municipalities' public communication channels. Participation must occur within 30 days following the catastrophic event, or within any other timeframe that MEMA may establish for the IDA process that is consistent with determining eligibility for federal disaster relief programs.

Following completion of an IDA, MEMA shall compile damage information and provide summary findings in writing to the Secretary. The Secretary may rely on this information and other available data sources to determine eligibility and award amounts.

The Secretary may further request any documentation necessary to:

- (a) Verify damages and costs;
- (b) Confirm eligibility, including any evidence that the eligible recipient has taken necessary steps to maintain property or perform specific state-recommended remediation measures;
- (c) Ensure that assistance does not result in a duplication of benefits; or
- (d) Determine whether an eligible recipient has taken reasonable steps to pursue insurance, federal disaster assistance, or other available funding.

Such documentation may include, but is not limited to, independent assessments, insurance materials, transaction documentation, photographs, or other information sufficient to confirm the nature and extent of costs.

29.07: Prioritization Criteria and Award Determination

The Secretary may distribute assistance through formula-based methods designed to balance the needs of eligible recipients, including by prioritizing certain recipient types or allocating funding among recipients based on program goals, available funding, or the scale of damages.

The Secretary may consult with MEMA, OCIR, and EOEEA, as necessary, when applying these criteria. Specific distribution methodologies may be established through guidance issued pursuant to these regulations.

When determining whether to provide assistance and the amount of any award, the Secretary may consider the following factors and may apply formula-based distribution methods consistent with these regulations.

Scope and Severity of Impact. The Secretary may consider the magnitude of damage caused by the catastrophic event, including:

- (a) The number of individuals affected;
- (b) Extent of damage to critical infrastructure or essential services; or
- (c) The extent of economic disruption to communities.

Damage Category. Awards may vary based on the severity of damage experienced by a recipient. The Secretary may establish damage categories, and these categories may be used to determine flat award levels or formula-based adjustments.

Municipal Fiscal Capacity. In determining assistance to municipalities, the Secretary may consider the following indicators of municipal fiscal capacity, including:

- (a) The level of municipal reserves relative to operating budgets;
- (b) The municipality's ability to finance repairs independently; or
- (c) Other indicators of fiscal stress or financial capacity.

Rural Community Considerations. The Secretary may apply adjustments to support municipalities or recipients located in rural communities where:

- (a) Infrastructure replacement costs may be higher relative to tax base; or
- (b) Communities may have limited fiscal capacity or access to alternative funding sources.

Commitment to Resilient Rebuilding. The Secretary shall prioritize a recipient's commitment to rebuilding or repairing damaged property in a manner that improves resilience to future catastrophic events by considering future projections of precipitation, sea levels, temperature, and other climate impacts.

The Secretary shall require award recipients to provide an attestation indicating that, where feasible and consistent with applicable laws and standards, repairs or reconstruction funded through the program will incorporate reasonable measures to reduce vulnerability to future disasters, which may include alignment with applicable building codes, hazard mitigation strategies, or other resilience standards, guidelines or practices identified by relevant state agencies.

The Secretary may adjust awards to recognize efforts to reduce future disaster risk including whether a municipality has adopted and maintained:

- (a) A FEMA-approved Hazard Mitigation Plan (HMP);
- (b) A Municipal Vulnerability Preparedness (MVP) plan; or
- (c) Other recognized resilience or hazard mitigation plans.

Agricultural Operations. For agricultural operations, the Secretary may consider factors such as:

- (a) The scale of the agricultural operation;
- (b) The acreage impacted by the catastrophic event;
- (c) Damage to agricultural infrastructure or farmland; or
- (d) Information from federal agricultural disaster programs or state agricultural agencies.

Business Characteristics. For businesses, the Secretary may consider characteristics that reflect the scale or economic role of the business, such as:

- (a) Whether the business qualifies as a small business under applicable U.S. Small Business Administration size standards;
- (b) Number of employees;
- (c) Business size or capacity; or
- (d) Economic significance to the affected community.

Coordination With Other Assistance. Priority may be given where eligible recipients have:

- (a) Pursued available insurance claims;
- (b) Applied for federal disaster assistance; or
- (c) Sought other available public or private funding.

The Secretary may adjust award amounts to prevent duplication of benefits.

29.08: Forms of Assistance

Assistance from the Fund may be provided in the form of grants. The Secretary shall provide written notice to eligible recipients whose requests are approved, approved in part, or denied, including the amount of any award and the basis for determination.

To preserve capacity for future catastrophic events, no more than 25 percent (25%) of the Fund balance as of the first day of the fiscal year shall be expended on a single catastrophic event, unless the Secretary determines that exceeding this threshold is necessary due to extraordinary magnitude, severity, or demonstrated need.

29.09: Appeals Process

An eligible recipient that is denied assistance from the Fund, or that disputes the amount of assistance awarded, may submit an appeal to the Secretary.

- (a) Appeals shall be submitted in a form and manner prescribed by the Secretary and shall state the basis for the appeal, including any additional information the eligible recipient believes is relevant to the determination.
- (b) The Secretary may request additional documentation as necessary to evaluate an appeal, including materials related to damages, need, insurance claims, federal assistance determinations, or other funding sources.
- (c) Appeals shall be reviewed by the Secretary, in consultation with MEMA, OCIR, or any other experts. The Secretary shall issue a written determination granting, modifying, or denying the appeal.
- (d) The Secretary's determination on an appeal shall be final.

29.10: Guidance and Updates

The Secretary may issue guidance to support implementation of these regulations, including clarifying eligible uses, verification expectations, prioritization factors, or administrative procedures. Guidance may be updated as needed based on the nature of catastrophic events, available federal programs, or operational experience.