

**SUMMARY:** This rule governs the process for the expenditure of funds from the Disaster Recovery Fund, established pursuant to Title 37-B M.R.S. §745.

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## SECTION 1. DEFINITIONS

1. **Administrator.** “Administrator of the Maine Disaster Relief Fund” or “Administrator” means the private, non-profit organization composed of volunteers from industry and non-profit organizations, established to administer the privately funded Maine Disaster Relief Fund independent of State Government.
2. **Agency.** “Agency” means the Maine Emergency Management Agency within the Department of Defense, Veterans and Emergency Management.
3. **Alternate Project.** “Alternate Project” means a project under the FEMA Public Assistance program proposed by the applicant when it has determined that the public welfare would not best be served by restoring a damaged facility or its function to the pre-disaster design.
4. **Consumer Price Index.** “Consumer Price Index (CPI)” means a measure of the average change over time in the prices paid by urban consumers for a market basket of consumer goods and services, published by the US Department of Labor, Bureau of Labor Statistics.
5. **Disaster.** “Disaster” has the same meaning as set forth in Title 37-B M.R.S. §703(2)
6. **Disaster Case Manager.** “Disaster case manager” means a trained staff person at a voluntary organization who works with individuals and families affected by a disaster to help link them to programs and services to address their disaster-caused unmet needs.
7. **DRT Agency.** “DRT Agency” means a member agency of the State Disaster Recovery Team (DRT) either designated by Executive Order or added on an ad hoc basis.
8. **Emergency Work.** “Emergency Work” means 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.
9. **Federal Disaster Declaration.** “Federal disaster declaration” means a determination by the President of the United States under the provisions of Section 401 of the *Robert T. Stafford Disaster Relief and Emergency Assistance Act*, 42 U.S.C. §5170 (Stafford Act), and implemented by 44 CFR §206.36 that a natural catastrophe, or, regardless of cause, any fire, flood, or explosion, in any part of the State of Maine, has caused damage of sufficient severity and magnitude to warrant major disaster assistance to supplement the

efforts and available resources of the State, local governments, and disaster relief organizations in alleviating the damage, loss, hardship, or suffering caused by such disaster.

10. **FEMA.** “FEMA” means the Federal Emergency Management Agency within the United States Department of Homeland Security, exercising its statutory authority to provide disaster assistance under the Stafford Act.
11. **Fund.** “Fund” means the State managed Disaster Recovery Fund established by Title 37-B M.R.S. §745.
12. **Improvement Project.** “Improvement project” means a project proposed by an applicant to make improvements to a damaged facility, over and above restoring the facility to its pre-disaster condition, which the applicant is willing to fund.
13. **Incident Period.** “Incident period” means the time interval during which the disaster-causing incident occurred.
14. **Individual Assistance.** “Individual assistance” means assistance that is essential to meet necessary expenses or serious needs of individuals and families caused by a disaster which cannot otherwise adequately be met.
15. **Large Project.** “Large project” means approved projects under the FEMA Public Assistance program estimated to cost the same or more than the large project threshold amount set by FEMA (see 44 CFR §206.203) for the current federal fiscal year.
16. **Maine Disaster Relief Fund.** “Maine Disaster Relief Fund” means the charitable fund created and managed by a not-for-profit organization for the purpose of receiving tax-deductible donations to serve the unmet needs of individuals and families affected by disaster in the State of Maine.
17. **Maine Public Assistance Program (MEPA).** “Maine Public Assistance Program” means disaster recovery assistance that is provided through the Fund to local governmental units following a disaster that is not federally declared.
18. **Mitigation.** “Mitigation” has the same meaning as set forth in Title 37-B M.R.S. §703(3-A).
19. **Municipality.** “Municipality” has the same meaning as set forth in Title 30-A M.R.S. §5903(7).
20. **Private nonprofit organization.** “Private nonprofit organization” means any nongovernmental agency or entity that currently has an effective ruling letter from the U.S. Internal Revenue Service granting tax exemption under section 501 (c), (d), or (e) of the *Internal Revenue Code of 1954*; and presents satisfactory evidence from the State that it is duly incorporated under the laws of this State or authorized to carry on activities in this State.
21. **Other Needs Assistance.** “Other needs assistance” means the FEMA Individual Assistance program which assists individuals who have disaster-related necessary expenses or serious needs other than housing (pursuant to 44 CFR §206.119) and for

which the State, in accepting the assistance, assumes an obligation to pay 25% of the cost pursuant to 44 CFR §206.110(i)(2)(ii).

22. **Permanent Work.** “Permanent work” means that restorative work that must be performed through repairs or replacement, to restore an eligible facility on the basis of its pre-disaster design and current applicable standards.
23. **Public Assistance.** “Public assistance” means supplementary federal assistance provided under the Stafford Act to state and local governments or certain private, nonprofit organizations, other than assistance for the direct benefit of individuals and families.
24. **Public Entity.** “Public entity” means an organization formed for a public purpose whose direction and funding are provided by one or more political subdivisions of the state.
25. **Public Facility.** “Public facility” means the following facilities owned by the State or local government: any flood control, navigation, irrigation, reclamation, public power, sewage treatment and collection, water supply and distribution, watershed development, or airport facility; any non-Federal aid, street, road or highway; and any other public building, structure, or system, including those used for educational, recreational, or cultural purposes; or any park.
26. **Recovery.** “Recovery” has the same meaning as set forth in Title 37-B §703(6).
27. **Response.** “Response” means those activities designed to provide emergency assistance to victims of a disaster, reduce the likelihood of secondary damage, or to accurately assess resource needs of municipalities and their populations, but which do not include winter snow clearance and road treatment costs.
28. **Small Project.** “Small project” means approved projects under the FEMA Public Assistance program estimated to cost less than the large project threshold amount set by FEMA (see 44 CFR §206.203) for the current federal fiscal year.
29. **Standards.** “Standards” means codes, specifications or standards required for the construction of facilities.
30. **State Disaster Recovery Team.** “State Disaster Recovery Team” (DRT) means the team established by Governor’s Executive Order 2015-010, October 14, 2015, consisting of representatives of 24 State and quasi-state agencies plus members from additional agencies which may be appointed on an ad hoc basis by the Director of the Agency, with the expertise, programs or resources that can assist individuals, families, businesses and communities following a disaster.
31. **Unmet Need.** “Disaster Caused Unmet Need” or “Unmet Need” means an un-resourced item, support, or assistance that has been assessed and verified by representatives from State, Tribal, local, and Federal governments and/or voluntary and faith-based organizations as necessary for the survivor to recover from the disaster. Unmet needs may also include basic immediate emergency needs such as food, clothing, shelter or first aid and long-term needs such as financial, physical, emotional or spiritual well-being.
32. **Voluntary Organization.** “Voluntary organization” means any chartered or otherwise duly recognized tax-exempt local, state or national organization or group which has

provided or may provide needed services to the State, local governments, or individuals in coping with an emergency or a major disaster.

## **SECTION 2: ACTIVATING USE OF THE FUND**

1. **Conditions for Activating the Fund.** The State will utilize the Fund as the first resource whenever the Governor has proclaimed a state of emergency due to a disaster pursuant to Title 37-B M.R.S. §742(1), or the President has declared that a major disaster exists in the State pursuant to Title 37-B M.R.S. §744. Use of the Fund may be activated with the Governor's approval, in response to a recommendation by the Agency. When approval is granted, the Governor will specify an incident period that defines the period of time during which any damages or costs must have been incurred in order to be covered.
2. **Limitations on Use of the Fund.** If the Agency knows that the balance in the Fund is insufficient to meet the estimated need, the Agency will not recommend use of the Fund unless:
  - A. The Fund would be used to provide matching funds for a federally declared disaster, and by requesting and accepting federal assistance the State has already incurred a financial obligation;
  - B. The Legislature is expected to take action to replenish the Fund within the next 90 days;
  - C. The Governor has directed a transfer of funds from another State account into the Fund within 60 days to meet the estimated need; or
  - D. It appears that the current balance plus expected replenishment will be sufficient to meet the Agency's best estimate of the need, even if a short-term unfunded obligation may be created during the administration of disbursements for the current incident.

When the Fund balance is at or below its reserve balance (see Section 10 below) but more than zero, the State may activate a Priority 1 (see Section 4 below) use of the Fund to the extent of the existing balance.

## **SECTION 3. ROLE AND AUTHORITY OF DISASTER RECOVERY TEAM AGENCIES**

1. **Role of DRT Agencies.** All agencies that are designated as part of the State's Disaster Recovery Team ("DRT") pursuant to Executive Order 2015-010, dated October 14, 2015, entitled "An Order Updating the State of Maine Emergency Response and Disaster Recovery Teams," ("ERT/DRT Executive Order") are available upon request of the Agency to assist in short-term, mid-term, and long-term recovery from a disaster in the State of Maine.
2. **Authority.** The Agency's authority to request or direct the participation of DRT Agencies is derived from the ERT/DRT Executive Order. The authority of DRT Agencies to perform their roles in disaster recovery, including the implementation of this

rule, is derived from the ERT/DRT Executive Order and the agencies' respective enabling statutes.

3. **Priority.** Upon request by the Agency, each DRT Agency will give first priority to those activities within its primary mission that are necessary to reduce or eliminate the effects of the emergency conditions and/or support the short-term recovery of communities and individuals.

#### **SECTION 4. PRIORITIES FOR USE OF THE FUND**

Once the Fund has been activated pursuant to section 2 above, authorized uses of the Fund will be allocated according to the following priorities:

1. **Priority 1** - Disaster recovery assistance to individuals and families in absence of a federal disaster declaration. The Agency will give first priority for use of the Fund to providing assistance to individuals and families when the State has requested, but has not received, a major disaster declaration by the federal government. See Section 5(3).
2. **Priority 2** - Matching funds for assistance to individuals in a federally declared disaster. The second priority for use of the Fund will be to provide the State match for federal funds to assist individuals recovering from a federally declared major disaster. See Section 5(4).
3. **Priority 3** - Disaster-related unmet needs of individuals and families in a federally declared disaster. The third priority for use of the Fund will be to cover the unmet needs individuals and families recovering from a federally declared major disaster. See Section 5(5).
4. **Priority 4** - Disaster recovery assistance to local governmental units in absence of a federal disaster declaration. The fourth priority for use of the Fund will be to provide assistance to local governments for infrastructure repair and response when the State has requested, but has not received, a major disaster declaration by the federal government. See Section 6.
5. **Priority 5** - State agency emergency response costs. The fifth priority for use of the Fund is to reimburse state agencies for costs incurred to respond to emergencies. See Section 7.
6. **Priority 6** - Matching funds for state and local governmental units in a federally declared disaster. The sixth priority for use of the Fund is to provide State matching funds under the federal Public Assistance ("PA") program. See Section 8.
7. **Priority 7** - Low-interest loans to businesses in absence of a federal disaster declaration. The seventh priority for use of the Fund is to provide low-interest loans to businesses recovering from a disaster when the State has requested but has not received a major disaster declaration by the federal government. See Section 9.

The Fund may be activated to address more than one priority use in response to a single event if appropriate to the identified need. The assigned priority will govern use of the Fund when the available balance is not sufficient to meet all identified disaster needs.

**SECTION 5. DISASTER RECOVERY ASSISTANCE TO INDIVIDUALS AND FAMILIES**

1. **Assessment of Damage.** Following any disaster event, the Agency will review damage assessments gathered by County Emergency Management Agencies and other sources, including but not limited to the 211 Maine referral system and affected municipalities, and will consult with voluntary organizations and DRT Agencies serving those individuals and families affected by the disaster. The Agency will assess the numbers of individuals and families affected; the number of homes damaged; essential needs of those affected as compared to available programs; anticipated insurance coverage; anticipated unmet needs; and the balance in the Fund available to address anticipated needs.
2. **Agency Recommendation.** Based on the assessment of damage, the Agency will make a recommendation to the Governor concerning activation of the Fund, which includes the estimated amount needed to address the needs of those affected and the most expedient method to administer the assistance (see subsections 3(C) – (E)). If the initial assessment of damages to housing and other individual and family needs approaches the applicable thresholds to qualify for the Individual Assistance program administered by FEMA, the Agency will recommend that the Governor seek a federal disaster declaration before activating the Fund.
3. **Use of the Fund to Assist Individuals and Families in the Absence of a Federal Disaster Declaration**
  - A. **Limitations on Use of the Fund.** The Fund may be used to supplement or complement, but not supplant, assistance to individuals and families provided by voluntary organizations or through existing programs that are administered by DRT Agencies. The Agency will provide no direct monetary grants to individuals or families from the Fund, but will instead offer assistance by donating funds to a voluntary organization, a DRT or voluntary organization, or to the Maine Disaster Relief Fund, as outlined in paragraphs C through E below. This is a Priority 1 use of the Fund.
  - B. **Eligible Forms of Assistance.** The Agency's focus for providing aid to individuals and families (consistent with the types of assistance offered by FEMA under FEMA's Individual Assistance program following a federal disaster declaration) will be on meeting immediate safety and health needs, including but not limited to such items as:
    - (1) Safe, sanitary and secure housing (e.g., assistance with clean-up, mold remediation, minor home repairs, or temporary housing if warranted);
    - (2) Clothing;
    - (3) Essential furnishings or tools;
    - (4) Essential medical supplies or appliances;
    - (5) Disaster-related mental health and medical services; and
    - (6) Disaster-related funeral services.

**C. Support to Voluntary Organizations**

- (1) Based upon a recommendation by the Agency, the Governor may make a donation from the Fund to one or more voluntary organizations to reimburse costs incurred by those organizations in meeting the needs of individuals and families adversely affected by a disaster. Priority will be given to voluntary organizations not affiliated with a national organization that could provide additional resources.
- (2) Any voluntary organization that receives a donation from the Fund will be asked to report to the Agency at the close of recovery operations for the particular disaster for which the donation was made on the support provided to clients from this disaster. Unspent funds must be returned to the Agency.

**D. Support to DRT, Municipal and Voluntary Organization Programs**

- (1) Where a program administered by a DRT Agency, Municipality or voluntary organization exists that may effectively serve individuals and families adversely affected by a Maine disaster, such individuals will be encouraged to apply for assistance under existing program rules. Appropriate programs are those that address immediate safety and health needs, as described under subsection 3(b), above.
- (2) If the program does not have sufficient funds to serve those who qualify, and can legally accept a transfer from the Fund, the Agency will execute or activate an existing a Memorandum of Understanding with the DRT Agency or voluntary organization governing the process for requesting and fulfilling such a transfer. See Section 11.
- (3) Provision of monetary support from the Fund does not confer any management responsibilities on the part of the Agency or the State in the operation either of the DRT Agency program that is providing direct aid to those affected by the disaster. Any program that receives monetary support from the Fund will serve clients according to its established rules and procedures.
- (4) If a voluntary organization is not specified in the ERT/DRT Executive Order as a DRT Agency, it will be added to the DRT on an ad hoc basis to ensure full coordination with the Agency and other DRT members.

**E. Support to the Maine Disaster Relief Fund**

- (1) Based upon a recommendation by the Agency, the Governor may make a donation from the Fund to the Maine Disaster Relief Fund to address the needs of individuals and families affected by the disaster. The Administrator of the Disaster Relief Fund must first provide the Agency with a credible estimate of the needs that cannot be met by the current resources of the Disaster Relief Fund. Any donation from the Fund to the

Maine Disaster Relief Fund must be distributed in accordance with the bylaws and appropriations guidelines established by the Administrator.

- (2) The Administrator of the Maine Disaster Relief Fund must report to the Agency at least annually and/or at the close of recovery operations for the disaster for which a donation from the Fund was made, on the status of support provided to clients from this disaster. The Agency will not request return of unspent funds, provided the Administrator agrees to hold those funds in reserve for future disasters.

**4. Use of the Fund to Provide State Match when a Federal Disaster is declared**

- A. If a federal disaster is declared that includes Individual Assistance and the Other Needs Assistance (ONA) program is activated by FEMA, the State may use the Fund to meet its obligation under federal law to contribute 25% of the ONA costs, to the extent that the match cannot be met through in-kind contributions or previously-incurred costs. This is a Priority 2 use of the Fund.
- B. Disbursements from the Fund to meet the remaining billed obligation will be made according to established State of Maine accounting practices. If there is an insufficient balance in the Fund to meet the remaining state obligation, the Agency will consult with the Department of Administrative and Financial Services and the Governor's office to determine how the obligation will be met.

**5. Use of the Fund to Address Unmet Needs of Individuals and Families when a Federal Disaster is Declared**

- A. If a federal disaster is declared that includes authorization of Individual Assistance from FEMA, then individuals in the declared areas will apply directly to FEMA for disaster assistance. The Agency will also provide to FEMA a list of additional state programs that may be able to provide assistance to individual applicants.
- B. If there are unmet needs after individuals have exhausted the aid available to them from FEMA and private insurance, the Fund may be used to provide assistance in the same manner as described in subsection 3. This is a Priority 3 use of the Fund.

**SECTION 6. DISASTER RECOVERY ASSISTANCE TO LOCAL AND COUNTY GOVERNMENTAL UNITS – MAINE PUBLIC ASSISTANCE PROGRAM**

**1. Scope of Maine Public Assistance Program**

- A. The Fund may be used to reimburse local and county governmental units as well as private nonprofit organizations when a major disaster is not declared by the President of the United States under the *Robert T. Stafford Act* (Priority 4), pursuant to the Maine Public Assistance (MEPA) program described in this section.

- B. All uses of the Fund for this purpose will be for reimbursement only, based on submission of required documentation by eligible applicants.
  - C. Winter road snow clearance and road treatment costs are not eligible for reimbursement from the Fund under this program.
2. **Assessment of Damage.** Following any disaster event, the Agency will review local and county damage assessments gathered by County Emergency Management Agencies and consult with DRT Agencies serving those local and county governmental units affected by the disaster. Following the FEMA Public Assistance program format, the Agency will assess the degree of damage and estimated costs for recovery according to the categories outlined below.
- A. **Emergency Work**
    - (1) Category A (Debris Removal)
    - (2) Category B (Emergency Protective Measures)
  - B. **Permanent Work**
    - (1) Category C (Roads and Bridges)
    - (2) Category D (Water Control Facilities)
    - (3) Category E (Buildings and Equipment)
    - (4) Category F (Utilities)
    - (5) Category G (Parks, Recreational Facilities, and Other Items)
3. **Agency Recommendation.** Based on the assessment of damage, the Agency will make a recommendation to the Governor concerning activation of the Fund, which includes the estimated amount needed to address the recovery costs of those affected local and county governmental units. If the initial assessment of damages approaches the applicable thresholds to qualify for a Presidential major disaster declaration administered by the Federal Emergency Management Agency, the Agency will recommend that the Governor seek a federal disaster declaration before activating the Fund for MEPA.
- A. The Agency will assess the degree of damage and estimated costs for recovery using the criteria outlined below. The per capita benchmarks referenced in this section will be adjusted annually according to the Consumer Price Index (CPI). Due to varied populations and number of jurisdictions statewide, no specific County-level per capita benchmarks have been established.
    - (1) Multiple communities (5 or more) reporting \$10.00 per capita or greater in disaster related costs and damages;
    - (2) Single communities reporting \$30.00 or more per capita in disaster related costs and damages; and

(3) Additional impacts described by the applicant such as economic and community disruption, and overall demographic and economic factors in the affected jurisdiction.

- B. For each disaster event in which the Fund is activated for MEPA, the Governor will set an eligibility threshold for applicants based on assessed local damages and costs. In general, the threshold will not be less than the current FEMA minimum per project cost threshold or \$10.00 per capita, whichever is higher.
- C. The Governor may allow applicants with less than \$10.00 per capita costs, as long as their assessed costs meet or exceed the current minimum per project cost established by FEMA.
- D. The Governor may set a higher per capita threshold for applicant eligibility based on economic factors as well as the available balance in the Fund.

#### 4. **Eligibility for Assistance**

- A. In order to be eligible for assistance from MEPA, municipal applicants must be:
- (1) participants in good standing with the National Flood Insurance Program (NFIP) as authorized in 42 USC Chapter 50; and
  - (2) have formally adopted a current FEMA-approved County or Local Hazard Mitigation Plan (HMP) as required under the Stafford Act.
- B. In order to be eligible for assistance from MEPA, municipal and county applicants must maintain a current Emergency Operations Plan (EOP) that has been revised within the past three (3) years. The EOP must have been formally activated during the applicant's response to the disaster event.

#### 5. **Cost Sharing, Incentives, and Mitigation Activities**

- A. **Basic Cost Share.** For all eligible applicants, and so long as the Fund has not reached its Reserve Balance (see Section 10) the Fund will reimburse at least 50% of eligible damages and costs.
- B. **Incentives to Obtain Higher Reimbursement Rates.** Certain actions and conditions (incentives) met by municipal applicants may qualify those entities to receive a higher percentage of reimbursement from the Fund, not to exceed 65% of eligible damages and costs. Each of the following conditions, if met by the municipal and/or county applicant (as applicable), will result in an additional 5% in recovery costs paid from the Fund, not to exceed 65% of the applicant's total eligible damages
- (1) Participation in the Community Rating System (CRS) of the National Flood Insurance Program;
  - (2) Documentation that the municipality has completed a mitigation project identified in the HMP under which it is covered, or a similar project identified after the HMP was approved, within the last 5 years, supported

by any funding source. Documentation is subject to verification by the Agency, or the appropriate subject matter DRT member agency; and

- (3) Adoption of the *Maine Uniform Building Code* as defined in Title 10 M.R.S. Chapter 1103.
- (4) Exercises focused on the Emergency Operations Plan (EOP) in the last two years which have been documented and submitted to the respective County EMA.

C. **Improvement Projects.** An applicant may propose to improve a damaged site to standards designed to reduce or prevent future damage. Such proposals to mitigate future damages will be reviewed by the Agency and the appropriate DRT Agency technical experts. If approved, up to 15% of the estimated cost of the improvement may be added to the cost of the project for which the applicant is seeking reimbursement.

## 6. **Application Process, Timelines, and Reimbursement**

- A. **Forms.** Applications must be submitted on an official MEPA application form adopted by the Agency. The Agency may adopt the FEMA application forms, or create a separate MEPA form.
- B. **Briefings.** The Agency, along with the applicable County Emergency Management Agency will hold public briefings in each County or region in which heavily impacted jurisdictions have been identified. Potential applicants may apply for assistance by filling out an official MEPA application form at the briefing, or by submitting it within 30 days from the Governor's activation of the Fund for MEPA.
- C. **Project proposal development and review**
  - (1) Applicants must utilize MEPA Project Worksheets (MEPA-PWs) and provide supporting documentation to request approval of projects to repair damages or recoup response costs.
  - (2) MEPA-PWs must identify the eligible scope of work and must include a quantitative estimate for the eligible work.
  - (3) Each project must meet or exceed the current FEMA minimum per project cost threshold.
  - (4) Multiple MEPA-PWs must be submitted for separate damage sites and cost categories.
  - (5) MEPA-PWs will be reviewed by Agency staff as well as staff from DRT Agencies as appropriate. Any errors or omissions in MEPA-PWs will be conveyed to the applicant so that it has an opportunity to correct them within a specified time period.

- (6) All MEPA-PWs must be submitted within 60 days after the Governor's activation of MEPA.
- (7) The Agency will notify the applicant of approval or disapproval of MEPA-PWs within 45 days of receipt of an application that includes all required information.
- (8) Approval of a project by the Agency constitutes a financial obligation on the part of the State to reimburse the amount of the State share of the project.

**D. Project Timelines**

- (1) Applicants must complete approved Emergency Work projects within six (6) months of project approval.
- (2) Applicants must complete approved Permanent Work projects within eighteen (18) months of project approval.
- (3) Any additional mitigation activities must be completed within eighteen (18) months of project approval.
- (4) No extensions will be granted for Emergency Work.
- (5) Applicants may request an extension of the timeline to complete Permanent Work for up to an additional twelve (12) months. Under extraordinary circumstances, a further extension of up to six (6) months may be requested and will be considered on a case-by-case basis.

**E. Project Reimbursement**

- (1) All reimbursements will be based on the actual costs, for which detailed documentation must be submitted.
- (2) Billings for actual costs may be submitted to the Agency at any point during the project, using the appropriate forms and including all supporting documentation that the Agency may request.
- (3) Acceptance and approval of any billing is subject to a site visit by Agency or DRT Agency staff.
- (4) A reimbursement request that is returned to the applicant for correction or additional information will not be approved and scheduled for reimbursement until the corrected or completed version is returned and accepted.
- (5) Reimbursement will not exceed 75% of the State's obligated share of a project, pending a final inspection of the completed project by the Agency or appropriate DRT Agency.

- (6) The Agency may decline to reimburse costs if the inspection indicates that the project is not complete, or work was carried out in a manner not consistent with applicable codes and standards governing the type of work.
  - (7) If reimbursement requests exceed the available balance in the Fund, the Agency may delay or pro-rate reimbursements upon notice to the applicants. The Agency will also inform the Governor of any funding shortfall.
- F. **Appeals Process.** Appeals from Agency decisions on project eligibility determinations will be heard by the Commissioner of the Department of Defense, Veterans and Emergency Management (DVEM) or his or her designee.
- (1) Appeals must be filed within 30 days after the date of the decision which is being appealed.
  - (2) Appeals by the applicant must include supplemental evidence and documentation not included in the original project proposal to support the applicant's claim that a particular project is eligible for assistance from the Fund.
  - (3) The appeal will be heard and a final decision rendered within 60 days of the receipt of the appeal.
- G. **Administrative Costs.** In order to provide administrative oversight of the MEPA program, as well as to provide technical assistance to local and county applicants recovering from a disaster, the Fund may be used to reimburse DRT Agencies for the following activities:
- (1) Overtime costs or travel expenses incurred by DRT Agency personnel during damage assessment, conducting public briefings, provision of direct technical assistance to applicants, review of MEPA-PWs, or project inspections; and
  - (2) Costs of contracting with additional personnel directly assigned by a DRT Agency to any of the above-listed functions.

## SECTION 7. STATE AGENCY EMERGENCY RESPONSE COSTS

1. **Eligible state agencies.** Any state agency that has performed tasks to support disaster response and recovery and has incurred costs that exceed its budgetary allotments and may jeopardize the agency's ability to carry out a mandated function may apply for reimbursement from the Fund. This is a Priority 5 use of the Fund. Agencies must request assistance within 30 days of the start of a disaster incident, and Agencies will only be reimbursed for costs that occurred within a 180-day period following the start of a disaster incident.
2. **Ineligible costs.** Winter snow clearance and road treatment costs are not eligible for reimbursement from the Fund.

3. **Review Process.** The Agency will review each request and make a recommendation regarding reimbursement to the Department of Administration and Finance and the Governor's Office. Reimbursement may be at 100% or a lesser amount depending on such factors as the balance in the Fund, the time remaining in the fiscal year, and the requesting agency's demonstration of need.
4. **Payments.** Approved reimbursement requests will be processed in accordance with established State of Maine accounting practices.

**SECTION 8. MATCHING FUNDS FOR ASSISTANCE TO STATE AND LOCAL GOVERNMENTAL UNITS IN A FEDERALLY DECLARED DISASTER**

If the State obtains a public assistance (PA) grant from FEMA following a federal disaster declaration, the Fund may be used to provide the State match for reimbursement requests from eligible public entities that are approved. This is a Priority 6 use of the Fund. In order to obtain a federal public assistance grant, the State must commit to paying twenty-five percent (25%) of the total amount of public assistance requested. Pursuant to 37-B M.R.S. §744(2-A)(A), the State must pay fifteen percent (15%) of eligible recovery costs, and local jurisdictions pay for the remaining ten percent (10%) of the total amount of assistance requested.

**SECTION 9. LOW-INTEREST LOANS TO BUSINESSES FOR DISASTER RECOVERY ASSISTANCE IN THE ABSENCE OF A FEDERAL DISASTER DECLARATION**

1. **Limitations on Use of the Fund for Small Business Loans.** The Agency will not make direct loans to businesses but may enter into an agreement with a federally or state recognized lending institution to administer a loan program in the event this use of the Fund is activated. This is a Priority 7 use of the Fund.
2. **Conditions for this Use of the Fund**
  - A. This use of the Fund will be activated only when the following conditions are met:
    - (1) The State has not received a federal disaster declaration for Individual Assistance;
    - (2) The Agency has determined that the number of businesses impacted is not enough to qualify for assistance from the U.S. Small Business Administration;
    - (3) There are businesses in the disaster impact area that would benefit from and wish to apply for low-interest loans;
    - (4) There is sufficient balance in the Fund to provide such loans; and
    - (5) A voluntary organization has been identified that can administer such loans.
  - B. If the conditions described in paragraph A are satisfied, and the Governor approves activation of the Fund for this purpose, the Agency will execute or

activate an existing Memorandum of Understanding (MOU) with the identified voluntary organization to administer loans to qualified applicants.

- C. The Memorandum of Understanding with the voluntary organization for this purpose must establish:
- (1) An interest rate equivalent to low-interest disaster loans administered by the United States Small Business Administration;
  - (2) A loan repayment schedule equivalent to the term for low-interest disaster loans administered by the United States Small Business Administration;
  - (3) The amount of any administrative fees to be charged by the partner agency;
  - (4) A requirement for the voluntary organization to return to the Fund any unexpended balance at the end of the loan term;
  - (5) An obligation by the voluntary organization to report annually to the Agency setting forth the number and amount of all loans issued and the status of such loans.
3. **Transfer of Funds.** The Agency will transfer monies to cover the amount of any loans issued under this section upon notification of loan approval by the voluntary organization.

## SECTION 10. RESERVE BALANCE

When use of the Fund is authorized for Priorities 2 through 7, the Agency will to the extent possible maintain a reserve balance of not less than 5% of the statutory maximum balance in the Fund, in order to ensure that resources are available for a Priority 1 use of the Fund. When use of the Fund is authorized for Priority 1, the entire Fund balance may be expended, in accordance with the priorities established by this rule.

## SECTION 11. MEMORANDUM OF UNDERSTANDING FOR CERTAIN USES OF THE FUND

1. **Memorandum Required for Certain Priority Uses of the Fund.** No monies may be distributed from the Fund to a voluntary organization for Priorities 1 or 3, or to a recognized lending institution for Priority 7, without the Agency first executing a Memorandum of Understanding (MOU) with the recipient voluntary organization or lending institution.
2. **Contents.** The MOU must define the purpose(s) for which monies from the Fund are being transferred to the voluntary organization or lending institution, the process for requesting and fulfilling such a transfer, and how those funds will be administered. The MOU will include a requirement for the voluntary organization or lending institution to report to the Agency at least annually and/or at the close of recovery operations on clients served and funds expended. Unspent funds must be returned to the Agency.

3. **Review.** The Agency will review all existing MOUs with voluntary organizations or lending institutions each year and revise, extend, reauthorize or terminate as the Agency deems appropriate.

## **SECTION 12. ANNUAL REPORT**

By January 15 of each year, the Agency will submit a written report to the Governor and the Legislature, pursuant to Title 37-B M.R.S. §745(5), including:

- \* The balance of the Fund;
- \* Expenditures from the Fund;
- \* Unfunded obligations of the Fund;
- \* The statutory maximum balance of the Fund as adjusted on July 1st based on the Consumer Price Index, in accordance with Title 37-B M.R.S. §745(4);
- \* The amount that would be required to bring the balance of the Fund to its statutory maximum balance, as defined in Title 37-B M.R.S. §745(4); and
- \* A listing of current Memoranda of Understanding with DRT Agencies for administration of any specific uses of the Fund.

STATUTORY AUTHORITY: 37-B MRS §745

EFFECTIVE DATE:

June 10, 2017 – filing 2017-073 (Final adoption, major substantive)