

## TITLE 145. OKLAHOMA DEPARTMENT OF EMERGENCY MANAGEMENT

*Editor's Note: Effective 5-29-03, the name of the Department of Civil Emergency Management was changed to the Oklahoma Department of Emergency Management. [Laws 2003, c. 329, § 6]*

### CHAPTER 10. GUBERNATORIAL DECLARATIONS FOR DISASTER ASSISTANCE

[Authority: 63 O.S., § 683.8(d)(1); Senate Bill 1091 (1994)]  
[Source: Codified 8-11-95]

#### SUBCHAPTER 1. GENERAL

##### **145:10-1-1. Purpose**

The purpose of this subchapter is to prescribe the policies and procedures to be followed in implementing 62 O.S. Supp. 1993, § 139.47 as amended by Enrolled Senate Bill No. 1091, signed into law by the Governor on 26 May 1994, delegated to the Oklahoma Department of Emergency Management (OEM).

[Source: Added at 11 Ok Reg 4611, eff 8-26-94 (emergency); Added at 12 Ok Reg 3320, eff 8-11-95; Amended at 34 Ok Reg 859, eff 9-12-17]

##### **145:10-1-2. Definitions**

Definitions which apply to individual Subchapters in this chapter are found in those Subchapters. In addition, the following words and terms, when used in this chapter, shall have the following meaning, unless the context clearly indicates otherwise:

**"Contractor"** means any individual, partnership, corporation, agency, or other entity (other than an organization engaged in the business of insurance) performing work by contract for the eligible Applicant.

**"Designated Area"** means any emergency or major disaster-affected portion of the State which has been determined eligible for State Disaster Assistance.

**"Director"** means the Director, OEM, or his/her designee.

**"Eligible Applicant"** means incorporated cities, towns and counties that apply for assistance as a result of a declaration of major disaster or emergency.

**"Emergency"** means any occasion or instance for which, in the determination of the Governor, State assistance is needed to supplement local efforts and capabilities to save lives and protect property and public health and safety, or to lessen or avert the threat of a catastrophe in any part of the State of Oklahoma.

**"Governor"** means the chief executive officer in the State, or the Acting Governor.

**"Governor's Authorized Representatives (GAR)"** means the person empowered by the Governor to execute, on behalf of the State, all necessary documents for State Disaster Assistance.

**"Gubernatorial Declaration"** means any major disaster or emergency declaration made by the Governor to alleviate suffering, protect life and property and provide assistance to eligible Applicants.

**"Hazard Mitigation"** means any cost-effective measure which will reduce the potential for damage to a facility from a disaster event.

**"Local Government"** means any county, city, village, town, district or other political subdivision of the State; and includes any rural community, unincorporated town or village, or other public entity for which an application for assistance is made by a county or political subdivision thereof.

**"Major Disaster"** means any natural catastrophe (including any tornado, storm, high water, wind-driven water, earthquake, landslide, mudslide, snow storm, or drought), or regardless of cause, any fire, flood, or explosion, in any part of the State of Oklahoma, which in the determination of the Governor causes damage of sufficient severity and magnitude to warrant major disaster assistance to supplement State and local resources in alleviating the damage, loss, hardship, or suffering caused thereby.

**"Public Assistance"** means supplementary State assistance provided to eligible Applicants other than assistance for the direct benefit of individuals and families. For further information, see subchapters 5, 7 and 9 of this chapter.

**"State Agency"** means any department, independent establishment, Government corporation, or other agency of the executive branch of the State Government.

**"State Coordinating Officer (SCO)"** means the person appointed by the Director, or in his/her absence, the Deputy Director, to coordinate State assistance in an emergency or major disaster.

[Source: Added at 11 Ok Reg 4611, eff 8-26-94 (emergency); Added at 12 Ok Reg 3320, eff 8-11-95; Amended at 34 Ok Reg 859, eff 9-12-17]

### **145:10-1-3. Policy**

It is the policy of OEM to provide an orderly and continuing means of assistance by the State government to eligible Applicants in carrying out their responsibilities to alleviate the suffering and damage that result from major disasters and emergencies by:

- (1) Providing State assistance programs for public losses and needs sustained in disasters;
- (2) Encouraging the development of comprehensive disaster preparedness and assistance plans, programs, capabilities, and organizations by the State and local governments;
- (3) Achieving greater coordination and responsiveness of disaster preparedness and relief programs;
- (4) Encouraging individuals and local governments to obtain insurance coverage and thereby reduce their dependence on governmental assistance; and
- (5) Encouraging hazard mitigation measures, such as development of land-use and construction regulations, floodplain management, protection of wetlands, and environmental planning, to reduce losses from disasters.

[Source: Added at 11 Ok Reg 4611, eff 8-26-94 (emergency); Added at 12 Ok Reg 3320, eff 8-11-95; Amended at 34 Ok Reg 859, eff 9-12-17]

### **145:10-1-4. Assistance by other State agencies**

- (a) In any declared major disaster, the Director may direct any State agency to utilize its authorities and the resources granted to it under State law (including personnel, equipment, supplies, facilities, and managerial, technical, and advisory services) to support local assistance efforts.
- (b) In any declared emergency, the Director may direct any State agency to utilize its authorities and the resources granted to it under State law (including personnel,

equipment, supplies, facilities, and managerial, technical, and advisory services) to support emergency efforts by local governments to:

- (1) save lives;
- (2) protect property, public health and safety; and
- (3) lessen or avert the threat of a catastrophe.

(c) Disaster assistance by other State agencies is subject to the coordination of the SCO. State agencies shall provide any reports or information about disaster assistance rendered that the SCO considers necessary and requests from the agencies.

(d) Assistance furnished by any State agency under subsections (a),(b), or (c) of this section is subject to the criteria provided by the Director.

(e) Assistance under subsections (a), (b), or (c) of this section, when directed by the Director, does not apply to nor shall it affect the authority of any State agency to provide disaster assistance independent of the Act.

(f) In carrying out the purposes of the Act, any State agency may accept and utilize, with the consent of the local government, the services, personnel, materials, and facilities of any local government, agency, office, or employee. Such utilization shall not make such services, materials, or facilities State in nature nor make the local government or agency an arm or agent of the State Government.

[Source: Added at 11 Ok Reg 4611, eff 8-26-94 (emergency); Added at 12 Ok Reg 3320, eff 8-11-95]

#### **145:10-1-5. Nonliability**

The State Government shall not be liable for any claim based upon the exercise or performance of, or the failure to exercise or perform a discretionary function or duty on the part of a State agency or an employee of the State Government in carrying out the provisions of the Act.

[Source: Added at 11 Ok Reg 4611, eff 8-26-94 (emergency); Added at 12 Ok Reg 3320, eff 8-11-95]

#### **145:10-1-6. Use of local firms and individuals**

In the expenditures of State funds for debris removal, distribution of supplies, reconstruction, and other major disaster or emergency assistance activities which may be carried out by contract or agreement, consistent with State and Federal procurement procedures, with private organizations, firms, or individuals, preference shall be given, to the extent feasible and practicable, to those organizations, firms, and individuals residing or doing business primarily in the area affected by such major disaster or emergency. This shall not be considered to restrict the use of State resources in the provision of major disaster assistance under the Act.

[Source: Added at 11 Ok Reg 4611, eff 8-26-94 (emergency); Added at 12 Ok Reg 3320, eff 8-11-95; Amended at 34 Ok Reg 859, eff 9-12-17]

#### **145:10-1-7. Nondiscrimination in disaster assistance**

(a) State financial assistance to eligible Applicants in this Act is conditioned on full compliance with 44 CFR part 7 Nondiscrimination in Federally-Assisted Programs.

(b) All personnel carrying out State major disaster or emergency assistance functions, including the distribution of supplies, the processing of the applications, and other relief and assistance activities, shall perform their work in an equitable and impartial manner, without discrimination on the grounds of race, color, religion, nationality, sex, age, or economic status.

(c) As a condition of participation in the distribution of assistance or supplies under the Act, or a receiving assistance under the Act, government bodies and other organizations shall provide a written assurance of their intent to comply with regulations relating to nondiscrimination.

(d) The State Agency shall make available to employees, applicants, participants, beneficiaries, and other interested parties such information regarding the provisions of this chapter and its applicability to the programs or activities conducted by the State Agency, and make such information available to them in such manner as the head of the agency finds necessary to apprise such persons of the protections against discrimination assured them by the Act and this chapter.

[Source: Added at 11 Ok Reg 4611, eff 8-26-94 (emergency); Added at 12 Ok Reg 3320, eff 8-11-95; Amended at 34 Ok Reg 859, eff 9-12-17]

#### **145:10-1-8. Standards and reviews**

(a) The Director shall establish program standards and assess the efficiency and effectiveness of programs administered under the Act by conducting annual reviews of the activities of State agencies and the eligible Applicant(s) involved in a major disaster or emergency response efforts.

(b) In carrying out this provision, the Director may direct State agencies to submit reports relating to their disaster assistance activities. The Director may request similar reports relating to these activities on the part of the eligible Applicant(s). Additionally, the Director may conduct independent investigations, studies, and evaluations as necessary to complete the reviews.

[Source: Added at 11 Ok Reg 4611, eff 8-26-94 (emergency); Added at 12 Ok Reg 3320, eff 8-11-95; Amended at 34 Ok Reg 859, eff 9-12-17]

#### **145:10-1-9. Criminal and civil penalties**

(a) **Misuse of funds.** Any eligible Applicant that knowingly misapplies the proceeds of cash benefit obtained under the Act may be fined an amount equal to one and one-half times the misapplied amount of the proceeds or cash benefit.

(b) **Civil enforcement.** Whenever it appears that any eligible Applicant has violated or is about to violate any provision of the Act, including any civil penalty imposed under the Act, the Attorney General may bring a civil action for such relief as may be appropriate. Such action may be brought in an appropriate district court.

(c) **Referral to Attorney General.** The Director shall expeditiously refer to the Attorney General for appropriate action any evidence developed in the performance of functions under the Act that may warrant consideration for criminal prosecution.

(d) **Civil penalty.** Any eligible Applicant that knowingly violates any order or regulation issued under the Act may be subject to a civil penalty of not more than \$5,000 for each violation.

[Source: Added at 11 Ok Reg 4611, eff 8-26-94 (emergency); Added at 12 Ok Reg 3320, eff 8-11-95; Amended at 34 Ok Reg 859, eff 9-12-17]

#### **145:10-1-10. Recovery of assistance**

Any eligible Applicant that intentionally causes a condition for which State assistance is provided under the Act or under any other law as a result of a declaration of major disaster or emergency under the Act shall be liable to the State for the reasonable costs incurred by the State in responding to such disaster or emergency to the extent that such costs are attributable to the intentional act or omission of such Applicant which caused such condition. Such action shall be brought in an appropriate District Court.

[Source: Added at 11 Ok Reg 4611, eff 8-26-94 (emergency); Added at 12 Ok Reg 3320, eff 8-11-95; Amended at 34 Ok Reg 859, eff 9-12-17]

### **145:10-1-11. Audit and investigations**

(a) The Director shall conduct fiscal reviews and investigations as necessary to assure compliance with the Act, and in connection therewith may question such persons as may be necessary to carry out such audits and investigations.

(b) For purposes of audits and investigations under this section, OEM or State auditors, the Governor's Authorized Representative, the Director or their duly authorized representatives, may inspect any books, documents, papers, and records of any person relating to any activity undertaken or funded under the Act.

[Source: Added at 11 Ok Reg 4611, eff 8-26-94 (emergency); Added at 12 Ok Reg 3320, eff 8-11-95; Amended at 34 Ok Reg 859, eff 9-12-17]

## **SUBCHAPTER 3. THE DECLARATION PROCESS**

### **145:10-3-1. Purpose**

The purpose of this subchapter is to describe the process leading to a Gubernatorial declaration of major disaster or an emergency and the actions triggered by such a declaration.

[Source: Added at 11 Ok Reg 4611, eff 8-26-94 (emergency); Added at 12 Ok Reg 3320, eff 8-11-95]

### **145:10-3-2. Definitions**

All definitions in 145:10-1-2 apply to this Subchapter. In addition, the following words or terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

**"Appeal"** means a request for reconsideration of a determination on any action related to State assistance. Specific procedures for appeals are contained in the relevant subchapters of this chapter.

**"Incident"** means any condition which meets the definition of major disaster or emergency as set forth in 145:10-1-2 which causes damage or hardship that may result in a Gubernatorial declaration of a major disaster or an emergency.

**"Incident period"** means the time interval during which the disaster-causing incident occurs. No State assistance under the Act shall be approved unless the damage or hardship to be alleviated resulted from the disaster-causing incident which took place during the incident period or was in anticipation of that incident period. The incident period will be established by OEM.

[Source: Added at 11 Ok Reg 4611, eff 8-26-94 (emergency); Added at 12 Ok Reg 3320, eff 8-11-95; Amended at 34 Ok Reg 859, eff 9-12-17]

### **145:10-3-3. Preliminary damage assessment**

The preliminary damage assessment (PDA) process is a mechanism used to determine the impact and magnitude of damage and the resulting unmet needs of the public sector, and the community as a whole. It is in the best interest of all parties to combine State and local personnel resources by performing a joint PDA prior to the initiation of a request, as follows:

(1) **Preassessment by the State.** When an incident occurs, or is imminent, which the State official responsible for disaster operations determines may be beyond the eligible Applicant(s) capabilities to respond, the State will perform a joint PDA with the eligible Applicant.

(2) **Damage assessment teams.** Damage assessment teams will be composed of at least one representative of the eligible Applicant and one representative of the State. Other State agencies, may also be asked to participate, as needed. It is the State's responsibility to coordinate the PDA and to ensure that the participants receive timely notification concerning the schedule. An OEM official will brief team members on damage criteria, the kind of information to be collected for the particular incident, and reporting requirements.

(3) **Review of findings.** At the close of the PDA, OEM will consult with the eligible Applicant to discuss findings and reconcile any differences.

(4) **Exceptions.** The requirements for a joint PDA may be waived for those incidents of unusual severity and magnitude that do not require field damage assessments to determine the need for supplemental State assistance under the Act, or in such other instances determined by the Director upon consultation with the eligible Applicant. It may be necessary, however, to conduct an assessment to determine unmet needs for managerial response purposes.

[Source: Added at 11 Ok Reg 4611, eff 8-26-94 (emergency); Added at 12 Ok Reg 3320, eff 8-11-95; Amended at 34 Ok Reg 859, eff 9-12-17]

#### **145:10-3-4. Requests for emergency declarations**

(a) When an incident occurs or threatens to occur in the State, which would not qualify under the definition of a major disaster, the eligible Applicant's highest elected official, or his/her representative in his/her absence, may request that the Governor declare an emergency. The eligible Applicant's highest elected official should submit the request to the Governor through the Director to ensure prompt acknowledgment and processing.

(b) The basis for the eligible Applicant's highest elected officials request must be the finding that the situation:

(1) Is of such severity and magnitude that effective response is beyond the capability of the eligible Applicant(s) and

(2) Requires supplementary State emergency assistance to save lives and to protect property, public health and safety, or to lessen or avert the threat of a disaster.

(c) In addition to the findings in (b) of this Section, the complete request shall include:

(1) Confirmation that the eligible Applicant has taken appropriate action and directed the execution of the emergency plan;

(2) Information describing the efforts and resources which have been or will be used to alleviate the emergency;

(3) Information describing other efforts and resources which have been or will be used in responding to this incident.

(d) The requirement for a request under subsection (a) of this section can be waived when an emergency exists for which the primary responsibility rests in the State government because the emergency involves a subject area for which, under the Constitution or laws of the State of Oklahoma exercises exclusive or preeminent responsibility and authority. Any party may bring the existence of such a situation to the attention of the OEM Director. In determining that such an emergency exists, the Director shall consult the Governor.

(e) It is not intended for an emergency declaration to preempt other state authorities and/or established plans and response mechanisms in place prior to the enactment

of the act.

(f) The request must be submitted within 30 days after the occurrence of the incident in order to be considered.

[Source: Added at 11 Ok Reg 4611, eff 8-26-94 (emergency); Added at 12 Ok Reg 3320, eff 8-11-95; Amended at 34 Ok Reg 859, eff 9-12-17]

#### **145:10-3-5. Requests for major disaster declarations**

(a) When an incident occurs in the State, the eligible Applicant's highest elected official of the affected jurisdiction or his/her representative may request a major disaster declaration. The eligible Applicant's highest elected official should submit the request to the Governor through the Director to ensure prompt acknowledgment and processing.

(b) This basis for the request shall be a finding that:

(1) The situation is of such severity and magnitude that effective response is beyond the capabilities of the eligible Applicant(s); and

(2) State assistance under the Act is necessary to supplement the efforts and available resources of the eligible Applicant(s), and compensation by insurance for disaster-related losses.

(c) In addition to the findings in (b) of this Section, the complete request shall include:

(1) Confirmation that the eligible Applicant's highest elected official has taken appropriate action and directed the execution of the emergency plan;

(2) An estimate of the amount and severity of damages and losses stating the impact of the disaster on the public sector;

(3) Information describing the nature and amount of resources which have been or will be committed to alleviate the results of the disaster;

(4) Preliminary estimates of the types and amount of supplementary State disaster assistance needed under the Act.

(d) The request must be submitted within 30 days of the occurrence of the incident in order to be considered.

[Source: Added at 11 Ok Reg 4611, eff 8-26-94 (emergency); Added at 12 Ok Reg 3320, eff 8-11-95; Amended at 34 Ok Reg 859, eff 9-12-17]

#### **145:10-3-6. Processing requests for declarations of a major disaster or emergency**

(a) **Acknowledgment.** The Director shall provide written acknowledgment of the eligible Applicant's request.

(b) **OEM recommendation.** Based on all available information, the Director shall formulate a recommendation which shall be forwarded to the Governor or his/her representative with the eligible Applicant's request.

(1) **Major disaster recommendation.** The major disaster recommendation will be based on a finding that the situation is or is not of such severity and magnitude as to be beyond the capabilities of the eligible Applicant(s). It will also contain a determination of whether or not supplemental State assistance under the Act is necessary and appropriate. In developing a recommendation, OEM will consider such factors as:

(A) the amount and type of damages;

(B) the impact of damages;

(C) the availability of resources;

(D) the extent and type of insurance in effect to cover losses;

- (E) assistance available from other State programs and other sources;
- (F) imminent threats to public health and safety;
- (G) recent disaster history in the State;
- (H) hazard mitigation measures taken by the State or the eligible Applicant(s), especially implementation of measures required as a result of previous major disaster declarations; and
- (I) other factors pertinent to a given incident.

(2) **Emergency recommendation.** The emergency recommendation will be based on the findings which will indicate whether or not State emergency assistance is necessary to lessen or avert the threat of a major disaster.

[Source: Added at 11 Ok Reg 4611, eff 8-26-94 (emergency); Added at 12 Ok Reg 3320, eff 8-11-95; Amended at 34 Ok Reg 859, eff 9-12-17]

#### **145:10-3-7. Gubernatorial determination**

- (a) The eligible Applicant's request for a major disaster declaration may result in either a Governor's declaration of a major disaster or denial of the request.
- (b) The eligible Applicant's request for an emergency declaration may result in either a Governor's declaration of an emergency or denial of the request.

[Source: Added at 11 Ok Reg 4611, eff 8-26-94 (emergency); Added at 12 Ok Reg 3320, eff 8-11-95; Amended at 34 Ok Reg 859, eff 9-12-17]

#### **145:10-3-8. Notification**

- (a) The eligible Applicant's highest elected official will be promptly notified by the Director or his/her designee of a declaration by the Governor that an emergency or a major disaster exists. OEM also will notify other state agencies and other interested parties.
- (b) The eligible Applicant's highest elected official will be promptly notified by the Director or his/her designee of a determination that the request does not justify the use of the authorities of the Act.
- (c) Following a major disaster or emergency declaration, the Director will promptly notify the eligible Applicant's highest elected official of the designations of assistance and areas eligible for such assistance.

[Source: Added at 11 Ok Reg 4611, eff 8-26-94 (emergency); Added at 12 Ok Reg 3320, eff 8-11-95; Amended at 34 Ok Reg 859, eff 9-12-17]

#### **145:10-3-9. Designation of affected areas**

- (a) **Areas eligible to receive assistance.** The Director has been delegated authority to designate areas eligible for supplementary State assistance under the Act.
- (b) **Requests for additional designations after a declaration.** After a declaration by the Governor, requests that additional areas or types of supplementary State assistance may be authorized by the Director. Such requests shall be accompanied by appropriate verified assessments and commitments by eligible Applicant(s) to demonstrate that the requested designations are justified and that the unmet needs are beyond local capabilities without supplementary State assistance.
- (c) **Time limits to request.** In order to be considered, all supplemental requests under subsection (b) of this section must be submitted within 30 days from the termination date of the incident period. The 30-day period may be extended by the Director provided that a written request is made by the eligible Applicant's highest elected official during this 30-day period. The request must include justification of the local's inability to meet the deadline.

[Source: Added at 11 Ok Reg 4611, eff 8-26-94 (emergency); Added at 12 Ok Reg 3320, eff 8-11-95; Amended at 34 Ok Reg 859, eff 9-12-17]

#### **145:10-3-10. Appointment of disaster officials**

(a) **State Coordinating Officer.** Upon a declaration of a major disaster or of an emergency, the Governor shall designate a State Coordinating Officer (SCO) who shall coordinate all State assistance.

(b) **Governor's Authorized Representative.** The Governor shall designate the Governor's Authorized Representative (GAR), who shall administer disaster assistance programs on behalf of the Governor. The GAR is responsible for the State and local compliance.

[Source: Added at 11 Ok Reg 4611, eff 8-26-94 (emergency); Added at 12 Ok Reg 3320, eff 8-11-95; Amended at 34 Ok Reg 859, eff 9-12-17]

#### **145:10-3-11. Responsibilities of coordinating officers**

Following a declaration of a major disaster or an emergency, the SCO shall:

- (1) Make an initial appraisal of the types of assistance most urgently needed;
- (2) Establish field offices as necessary to coordinate and monitor assistance programs and disseminate information.
- (3) Coordinate the administration of relief.
- (4) Undertake appropriate action to make certain that all of the State agencies are carrying out their appropriate disaster assistance roles under their own legislative authorities and operational policies; and
- (5) Take other action, consistent with the provisions of the Act, as necessary to assist citizens and public officials in promptly obtaining assistance to which they are entitled.

[Source: Added at 11 Ok Reg 4611, eff 8-26-94 (emergency); Added at 12 Ok Reg 3320, eff 8-11-95; Amended at 34 Ok Reg 859, eff 9-12-17]

#### **145:10-3-12. Emergency support teams**

The State Coordinating Officer may activate emergency support teams, composed of State program and support personnel, to be deployed into an area affected by a major disaster or emergency. These emergency support teams assist the SCO in carrying out his/her responsibilities. Any State Agency can be directed to detail personnel within the agency's administrative jurisdiction to temporary duty with SCO approval. Each detail shall be without loss of seniority, pay, or other employee status.

[Source: Added at 11 Ok Reg 4611, eff 8-26-94 (emergency); Added at 12 Ok Reg 3320, eff 8-11-95; Amended at 34 Ok Reg 859, eff 9-12-17]

#### **145:10-3-13. Appeals**

(a) **Denial of declaration request.** When a request for a major disaster declaration or for any emergency declaration is denied, the eligible Applicant's highest elected official may appeal the decision. An appeal must be made within 30 days after the date of the letter denying the request. This one-time request for reconsideration, along with appropriate additional information, is submitted to the Governor through the Director.

(b) **Extension of time to appeal.** The 30-day period referred to in subsection (a) of this section may be extended by the Director provided that a written request for such an extension, citing reasons for the delay, is made during this 30-day period,

and if the Director agrees that there is a legitimate basis for extension of the 30-day period. Only the eligible Applicant's highest elected official may request a time extension for appeals covered in subsection (a) of this section.

[Source: Added at 11 Ok Reg 4611, eff 8-26-94 (emergency); Added at 12 Ok Reg 3320, eff 8-11-95; Amended at 34 Ok Reg 859, eff 9-12-17]

## **SUBCHAPTER 5. PUBLIC ASSISTANCE PROJECT ADMINISTRATION**

### **145:10-5-1. General**

(a) **Purpose.** This subchapter establishes procedures for the administration of Public Assistance grants approved under the provisions of the Act.

(b) **Policy.** It is a requirement of the Act that, in the administration of the Public Assistance Program, eligible assistance be delivered as expeditiously as possible consistent with State laws and regulations.

[Source: Added at 11 Ok Reg 4611, eff 8-26-94 (emergency); Added at 12 Ok Reg 3320, eff 8-11-95]

### **145:10-5-2. Definitions**

The following words or terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

**"Eligible Applicant"** means an incorporated city, town or county submitting an application for assistance under the State's grant.

**"Emergency work"** means that 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.

**"Facility"** means any publicly owned building, works, system, or equipment, built or manufactured, or an improved and maintained natural feature. Land used for agricultural purposes is not a facility.

**"Grant"** means an award of financial assistance. The grant award shall be based on the total eligible State share of all approved projects.

**"Grantee"** means the eligible Applicant to which a grant is awarded which is accountable for the use of the funds provided.

**"Hazard mitigation"** means any cost effective measure which will reduce the potential for damage to a facility from a disaster event.

**"Permanent work"** means that restorative work that must be performed through repairs or replacement, to restore and eligible facility on the basis of its predisaster design and current applicable standards.

**"Predisaster design"** means the size or capacity of a facility as originally designed and constructed or subsequently modified by changes or additions to the original design. It does not mean the capacity at which the facility was being used at the time the major disaster occurred if different from the most recent designed capacity.

**"Project Worksheet (PW)"** means an OEM document capturing all work performed at a single or multiple sites and eligible for assistance under this Act.

**"Project Worksheet approval"** means the process where the Director signs an approval of work and costs on a PW. Such approval is also an obligation of funds to the Grantee.

[Source: Added at 11 Ok Reg 4611, eff 8-26-94 (emergency); Added at 12 Ok Reg 3320, eff 8-11-95; Amended at 34 Ok Reg 859, eff 9-12-17]

### **145:10-5-3. Application procedures**

(a) **General.** This section describes the policies and procedures for processing grants for State disaster assistance. The State is responsible for processing grants to applicants in accordance with its own policies and procedures.

(b) **Grantee.** The Grantee serves as the grant administrator for all funds provided under the State Public Assistance grant program. The Grantee's responsibilities as they pertain to procedures outlined in the section include providing support and submission of those documents necessary for grants award.

(c) **Per Capita Indicator.** The Grantee must provide evidence their level of damage has exceeded their indicator. The Grantee indicator is derived from the calculated result of the current year Federal Emergency Management Agency ("FEMA") County Per Capita Indicator multiplied by the latest census of the Grantee's population.

(d) **Notice of Intent (NOI).** The Grantee must submit to the Director, within 30 days following designation of the area in which damage is located, a letter on official letterhead and contain the following:

- (1) Evidence the Grantee indicator has been met or exceeded
- (2) Identification of damage
- (3) Recovery cost or estimate
- (4) Economic impact to the jurisdiction's budget

(e) **Project Worksheet (PW).** A Project Worksheet will be formulated following policies and procedures established by OEM. A PW will identify the eligible scope of work and a quantitative estimate for the eligible work. All PWs will be written using the current FEMA Public Assistance eligibility criteria.

(f) **Grant approval.** The Director will provide NOI approval or denial notification to the Grantee within 60 days from the date of the NOI. If approved, all eligible PWs will be written and approved by the Director within 60 days of the date of the Director's approval notification or from the date OEM receives all needed documentation to formulate the PW from the Grantee. The Director shall have the authority to withdraw grant approval if all required documentation is not submitted by the Grantee to OEM within 30 days of the date of the Director's approval notification.

(g) **Exception.** The time limitations shown in subsections (c) and (d) of this section may be extended by the Director when justified and requested in writing by the Grantee. Such justification shall be based on extenuating circumstances beyond the Grantee's control.

[Source: Added at 11 Ok Reg 4611, eff 8-26-94 (emergency); Added at 12 Ok Reg 3320, eff 8-11-95; Amended at 34 Ok Reg 859, eff 9-12-17]

#### **145:10-5-4. State grant assistance**

(a) **General.** This section describes the types and extent of State funding available under State disaster assistance grants, as well as limitations and special procedures applicable to each.

(b) **Funding.** A Grantee shall only be eligible to receive one Gubernatorial Declaration per calendar year.

(c) **Annual maximum.** Funding provided to a Grantee through the State Public Assistance Program shall not exceed one hundred thousand dollars (\$100,000.00) in a calendar year.

(d) **Cost Share.** Funding of the State Public Assistance Program is to be shared by the Grantee and the State. The State shall be responsible for 75 percent of total cost, of which may not exceed one hundred thousand dollars (\$100,000.00). The Grantee shall be responsible for the remaining 25 percent of total cost.

(e) **Delinquency.** A Grantee delinquent in owing the State funds received through the FEMA Public Assistance Program or previous Gubernatorial declarations may not be eligible to receive Gubernatorial declaration funding until all outstanding payments have been paid to the State.

[Source: Added at 11 Ok Reg 4611, eff 8-26-94 (emergency); Added at 12 Ok Reg 3320, eff 8-11-95; Amended at 34 Ok Reg 859, eff 9-12-17]

#### **145:10-5-5. Project worksheet validation**

(a) **General.** This section describes the policies and procedures applicable during the project worksheet validation.

(b) **Time limitations for completion of work.**

(1) **Deadlines.** The PW completion deadlines shown below are set from the date that a major disaster or emergency is declared and apply to all PWs approved under State disaster assistance grants:

- (A) Debris clearance - 6 months
- (B) Emergency work - 6 months
- (C) Permanent work - 18 months

(2) **Exceptions.** The State may impose alternate deadlines for the completion of work.

if considered appropriate.

(c) **Requests for time extensions.** Requests for time extensions shall be submitted by the Grantee to the SCO and shall include the following:

- (1) The dates and provisions of all previous time extensions on the PW; and
- (2) A detailed justification for the delay and a projected completion date.

The SCO shall review the request and make a determination. The Grantee shall be notified of the SCO's determination in writing. If the SCO approves the request, the notification shall reflect the approved completion date and any other requirements the SCO may determine necessary to ensure that the new completion date is met. If the SCO denies the time extension request, the Grantee may, upon completion of the PW, be reimbursed for eligible PW costs incurred only up to the latest approved completion date. If the PW is not completed, no State funding will be provided for that PW.

(d) **Cost Overruns.** During the execution of approved work a Grantee may find that actual PW costs are exceeding the approved PW estimates.

(1) Such cost overruns normally fall into the following three categories:

- (A) Variations in unit prices;
- (B) Change in the scope of eligible work; or
- (C) Delays in timely starts or completion of eligible work.

(2) The Grantee shall evaluate each cost overrun and, when justified, submit a request for additional funding to the SCO for final determination. All requests for the SCO's approval shall contain sufficient documentation to support the eligibility of claimed work and costs. The Grantee shall include a written recommendation when forwarding the request. The Director shall notify the Grantee in writing of the final determination. The Grantee may submit an appeal for additional funding in accordance with 145:10-5-7, within 60 days following the completion of all of its PWs.

Funding shall not exceed the annual maximum.

(e) **Progress reports.** Progress reports will be submitted by the Grantee to the SCO quarterly. The first quarterly report shall be due the first quarter subsequent to receiving the award. Such reports will describe the status of those PWs on which a final payment has not been made to the Grantee and outline any issues or

circumstances expected to result in noncompliance with the approved grant conditions.

[Source: Added at 11 Ok Reg 4611, eff 8-26-94 (emergency); Added at 12 Ok Reg 3320, eff 8-11-95; Amended at 34 Ok Reg 859, eff 9-12-17]

#### **145:10-5-6. Payment of claims**

(a) **Payment.** PWs may be paid up to the PW estimate at the Director's discretion.  
(b) **Timing.** Payment should be made by the State to the Grantee as soon as practicable after approval of funding. Prior to the validation of the PW, the Grantee shall certify that in the completed PWs are in accordance with OEM approvals. Failure to complete a PW may require that the payment be refunded.

(c) **Account of Work.**

(1) If requested by the SCO, the Grantee shall make an accounting to the SCO of eligible costs for each approved PW. In submitting the accounting the Grantee shall certify that reported costs were incurred in the performance of eligible work, that the approved work was completed and that the PW is in compliance. Each PW shall be submitted as soon as practicable after the Grantee has completed the approved work and requested payment.

(2) The SCO shall review the accounting to determine the eligible amount of reimbursement for each PW and approve eligible costs. If a discrepancy between reported costs and approved funding exists, the SCO may conduct field reviews to gather additional information. If discrepancies in the claim cannot be resolved through a field review, a State audit may be conducted and funds may be recovered by the State. If the SCO determines that eligible costs exceed the initial approval, he/she will obligate additional funds as necessary up to the annual maximum.

[Source: Added at 11 Ok Reg 4611, eff 8-26-94 (emergency); Added at 12 Ok Reg 3320, eff 8-11-95; Amended at 34 Ok Reg 859, eff 9-12-17]

#### **145:10-5-7. Appeals**

(a) **Grantee.** The Grantee may appeal any determination previously made related to State assistance including a time extension determination made by the Grantee. The Grantee's appeal shall be made in writing and submitted to the Director within 60 days after receipt of notice of the action which is being appealed. The appeal shall contain documented justification supporting the Grantee's position.

(b) **Director.** Upon receipt of an appeal, the Director shall review the material submitted and make such additional investigations as deemed appropriate. Within 90 days following receipt of an appeal, the Director shall notify the Grantee, in writing, as to the disposition of the appeal or of the need for additional information. Within 90 days following the receipt of such additional information, the Director shall notify the Grantee, in writing, of the disposition of the appeal. If the decision is to grant the appeal, the Director will take appropriate implementing action.

[Source: Added at 11 Ok Reg 4611, eff 8-26-94 (emergency); Added at 12 Ok Reg 3320, eff 8-11-95; Amended at 34 Ok Reg 859, eff 9-12-17]

#### **145:10-5-8. Audit requirements**

All audit requirements for this program are consistent with Federal and State audit requirements for public grants.

[Source: Added at 11 Ok Reg 4611, eff 8-26-94 (emergency); Added at 12 Ok Reg 3320, eff 8-11-95]

## SUBCHAPTER 7. PUBLIC ASSISTANCE ELIGIBILITY

### 145:10-7-1. General

This subchapter provides policies and procedures for determinations of eligibility of applicants for public assistance, eligibility of work, and eligibility of costs for assistance under the Act. Assistance under this subchapter must also conform to requirements of Subchapter 5-Public Assistance Project Administration and 9-Public Assistance Insurance Requirements. Regulations concerning Floodplain Management and Environmental Considerations, also apply to this assistance.

[Source: Added at 11 Ok Reg 4611, eff 8-26-94 (emergency); Added at 12 Ok Reg 3320, eff 8-11-95]

### 145:10-7-2. Definitions

The following words and terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

**"Facility"** means any publicly owned building, works, system, or equipment, built or manufactured, or an improved and maintained natural feature. Land used for agricultural purposes is not a facility.

**"Force account"** means an applicant's own labor forces and equipment.

**"Immediate threat"** means the threat of additional damage or destruction from an event which can reasonably be expected to occur within five years.

**"Improved property"** means a structure, facility or item of equipment which was built, constructed or manufactured. Land used for agricultural purposes is not improved property.

**"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.

**"Standards"** means codes, specifications or standards required for the construction of facilities.

[Source: Added at 11 Ok Reg 4611, eff 8-26-94 (emergency); Added at 12 Ok Reg 3320, eff 8-11-95; Amended at 34 Ok Reg 859, eff 9-12-17]

### 145:10-7-3. Applicant eligibility

The following entities are eligible to apply for assistance under the State public assistance grant:

- (1) Incorporated cities and towns
- (2) Counties

[Source: Added at 11 Ok Reg 4611, eff 8-26-94 (emergency); Added at 12 Ok Reg 3320, eff 8-11-95; Amended at 34 Ok Reg 859, eff 9-12-17]

### 145:10-7-4. General work eligibility

(a) **General.** To be eligible for financial assistance, an item of work must be:

- (1) Required as the result of the major disaster event,
- (2) Located within a designated disaster area, and
- (3) The legal responsibility of an eligible Applicant.

(b) **Negligence.** No assistance will be provided to an eligible Applicant for damages caused by its own negligence. If negligence by another party results in damages, assistance may be provided, but will be conditioned on agreement by the eligible Applicant to cooperate with OEM in all efforts necessary to recover the cost of such assistance from the negligent party.

[Source: Added at 11 Ok Reg 4611, eff 8-26-94 (emergency); Added at 12 Ok Reg 3320, eff 8-11-95; Amended at 34 Ok Reg 859, eff 9-12-17]

#### **145:10-7-5. Debris removal**

(a) **Public interest.** Upon determination that debris removal is in the public interest, the SCO may provide assistance for the removal of debris and wreckage from publicly and privately owned lands and waters. Such removal is in the public interest when it is necessary to:

- (1) Eliminate immediate threats to life, public health, and safety; or
- (2) Eliminate immediate threats of significant damage to improved public or private property; or
- (3) Ensure economic recovery of the affected community to the benefit of the community-at-large.

(b) **Debris removal from private property.** When it is in the public interest for an eligible Applicant to remove debris from private property in urban, suburban and rural areas, including large lots, clearance of the living, recreational and working area is eligible except those areas used for crops and livestock or unused areas. The Grantee will ensure that the rights of the property owner are met through documentation and notification.

(c) **Assistance to individuals and private organizations.** No assistance will be provided directly to an individual or private organizations, or to an eligible Applicant for reimbursement of an individual or private organization, for the cost of removing debris from their own property.

[Source: Added at 11 Ok Reg 4611, eff 8-26-94 (emergency); Added at 12 Ok Reg 3320, eff 8-11-95; Amended at 34 Ok Reg 859, eff 9-12-17]

#### **145:10-7-6. Emergency work**

(a) Emergency protective measures to save lives, to protect public health and safety, and to protect improved property are eligible.

(b) In determining whether emergency work is required, the SCO may require certification by local officials that a threat exists, including identification and evaluation of the threat and recommendations of the emergency work necessary to cope with the threat.

(c) In order to be eligible, emergency protective measures must:

- (1) Eliminate or lessen immediate threats to life, public health or safety; or
- (2) Eliminate or lessen immediate threats of significant additional damage to improved public or private property through measures which are cost effective.

[Source: Added at 11 Ok Reg 4611, eff 8-26-94 (emergency); Added at 12 Ok Reg 3320, eff 8-11-95; Amended at 34 Ok Reg 859, eff 9-12-17]

#### **145:10-7-7. Restoration of damaged facilities**

Work to restore eligible facilities on the basis of the design and function of such facilities as they existed immediately prior to the disaster and in conformity with the following is eligible:

- (1) **Assistance under other State or Federal agency programs.**

Generally, disaster assistance will not be made available under the Act when another State or Federal agency has specific authority to restore facilities damaged or destroyed by an event which is declared a major disaster.

(2) **Standards.** For the costs of repair or replacement standards which change the predisaster design and construction of facility to be eligible, the standards must meet Federal and State guidelines.

(3) **Hazard mitigation.** In approving grant assistance for restoration of facilities, the SCO may require cost effective hazard mitigation measures not required by applicable standards. The cost of any requirements for hazard mitigation placed on restoration projects by OEM will be an eligible cost for State assistance, not to exceed the cumulative annual maximum allowed.

(4) **Repair vs. replacement.**

(A) A facility is considered repairable when disaster damages do not exceed 50 percent of the cost of replacing a facility to its predisaster condition, and it is feasible to repair the facility so that it can perform the function for which it was being used as well as it did immediately prior to the disaster.

(B) If a damaged facility is not repairable in accordance with paragraph (d)(1) of this section, approved restorative work may include replacement of the facility. The eligible Applicant may elect to perform repairs to the facility, in lieu of replacement, if such work is in conformity with applicable standards. However, eligible costs shall be limited to the less expensive of repairs or replacement.

(C) An exception to the limitation in paragraph (d)(2) of this section may be allowed for facilities eligible for or on the National Register of Historic Properties. If an applicable standard requires repair in a certain manner, costs associated with that standard will be eligible.

(5) **Relocation.**

(A) The SCO may approve funding for and require restoration of a destroyed facility at a new location when:

- (i) The facility is and will be subject to repetitive heavy damage;
- (ii) The approval is not barred by other provisions.
- (iii) The overall project worksheet (PW), including all costs, is cost effective.

(B) When relocation is required by the SCO, eligible work includes land acquisition and ancillary facilities such as roads and utilities, in addition to work normally eligible as part of a facility reconstruction. Demolition and removal of the old facility is also an eligible cost.

(C) When relocation is required by the SCO, no future funding for repair or replacement of a facility at the original site will be approved.

(D) When relocation is required by the SCO, and, instead of relocation, the eligible Applicant's requests approval of an "alternate project", eligible costs will be limited to 90 percent of the estimate of restoration at the original location excluding hazard mitigation measures.

(E) If relocation of a facility is not feasible or cost effective, the SCO shall disapprove funding for the original location when he/she determines that restoration in the original location is not allowed. In such cases, an alternate project may be applied for.

(6) **Equipment and furnishings.** If equipment and furnishings are damaged beyond repair, comparable items are eligible as replacement items.

(7) **Library books and publications.** Replacement of library books and publications is based on an inventory of the quantities of various categories of books or publications damaged or destroyed. Cataloging and other work incidental to replacement are eligible.

(8) **Beaches.**

(A) Replacement of sand on an unimproved natural beach is not eligible.

(B) **Improved beaches.** Work on an improved beach may be eligible under the following conditions:

(i) The beach was constructed by the placement of sand (of proper grain size) to a designed elevation, width, and slope; and

(ii) A maintenance program involving periodic renourishment of sand must have been established and adhered to by the applicant.

(9) **Restrictions.**

(A) **Alternative use facilities.** If a facility was being used for purposes other than those for which it was designed, restoration will only be eligible to the extent necessary to restore the immediate predisaster alternate purpose.

(B) **Inactive facilities.** Facilities that were not in active use at the time of the disaster are not eligible except in those instances where the facilities were only temporarily inoperative for repairs or remodeling.

[Source: Added at 11 Ok Reg 4611, eff 8-26-94 (emergency); Added at 12 Ok Reg 3320, eff 8-11-95; Amended at 34 Ok Reg 859, eff 9-12-17]

#### **145:10-7-8. Snow removal assistance**

Snow removal assistance under this Act will be consistent with current Federal guidelines and policy.

[Source: Added at 11 Ok Reg 4611, eff 8-26-94 (emergency); Added at 12 Ok Reg 3320, eff 8-11-95; Amended at 34 Ok Reg 859, eff 9-12-17]

#### **145:10-7-9. Allowable costs**

Policy for determining allowable costs of eligible Applicant-owned equipment used to perform eligible work will be in accordance with current FEMA Cost Codes for the State.

[Source: Added at 11 Ok Reg 4611, eff 8-26-94 (emergency); Added at 12 Ok Reg 3320, eff 8-11-95; Amended at 34 Ok Reg 859, eff 9-12-17]

### **SUBCHAPTER 9. PUBLIC ASSISTANCE INSURANCE REQUIREMENTS**

#### **145:10-9-1. General**

Public Assistance Insurance requirements are consistent with current FEMA guidelines and policies.

[Source: Added at 11 Ok Reg 4611, eff 8-26-94 (emergency); Added at 12 Ok Reg 3320, eff 8-11-95; Amended at 34 Ok Reg 859, eff 9-12-17]

### **145:10-9-2. Definitions [REVOKED]**

[Source: Added at 11 Ok Reg 4611, eff 8-26-94 (emergency); Added at 12 Ok Reg 3320, eff 8-11-95; Revoked at 34 Ok Reg 859, eff 9-12-17]

### **145:10-9-3. Insurance requirements for facilities damaged by flood [REVOKED]**

[Source: Added at 11 Ok Reg 4611, eff 8-26-94 (emergency); Added at 12 Ok Reg 3320, eff 8-11-95; Revoked at 34 Ok Reg 859, eff 9-12-17]

### **145:10-9-4. Insurance requirements for facilities damaged by disasters other than flood [REVOKED]**

[Source: Added at 11 Ok Reg 4611, eff 8-26-94 (emergency); Added at 12 Ok Reg 3320, eff 8-11-95; Revoked at 34 Ok Reg 859, eff 9-12-17]

## **CHAPTER 15. OKLAHOMA 9-1-1 MANAGEMENT AUTHORITY**

[Authority: Laws 2016, C. 324, § 12]

[Source: Codified 9-14-18]

### **SUBCHAPTER 1. ADMINISTRATIVE OPERATIONS**

#### **145:15-1-1. Purpose**

The purpose of this Chapter is to establish procedures and guidelines for the implementation and enforcement of the Oklahoma 9-1-1 Management Authority Act, 63 O.S., Sections 2861, et seq.

[Source: Added at 34 Ok Reg 599, eff 7-11-17 (emergency); Added at 35 Ok Reg 911, eff 9-14-18]

#### **145:15-1-2. Definitions**

In addition to the terms defined in 63 O.S., Section 2862, the following words and terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

**"Act"** means the Oklahoma 9-1-1 Management Authority Act, 63 O.S., Sections 2861, et seq.

**"Coordinator"** means the Oklahoma 9-1-1 Coordinator selected by the Authority to administer grants approved by the Authority and perform other duties as it deems necessary to accomplish the requirements of the Act.

**"Next-Gen 9-1-1"** means an initiative of the National Emergency Number Association (NENA) to update the 9-1-1 service infrastructure to allow for additional types of emergency communication and data transfer such as text, images, and video in addition to phone communication.

**"Phase II"** means a wireless Enhanced 9-1-1 program where wireless carriers provide the PSAP with the location of the caller to a certain degree of certainty in accordance with accuracy standards set by the Federal Communications Commission (FCC).

[Source: Added at 34 Ok Reg 599, eff 7-11-17 (emergency); Added at 35 Ok Reg 911, eff 9-14-18]

#### **145:15-1-3. Computation of time**

In computing any time period prescribed or allowed by this Chapter, the day of the act or event from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is

not a working day, in which event the period runs until the end of the next day which is a working day.

[Source: Added at 34 Ok Reg 599, eff 7-11-17 (emergency); Added at 35 Ok Reg 911, eff 9-14-18]

#### **145:15-1-4. Availability of forms and documents**

All forms required by the Authority are available at the Authority's office and on the Authority's website. Additional forms and instructions may be developed for use when deemed necessary by the Authority. All records of the Authority which are public record pursuant to the Oklahoma Open Records Act and are not confidential or otherwise protected from public disclosure by applicable statutes or rules shall be available for public review and copying during regular business hours at the Authority's office. Copies shall be available upon payment of applicable fees.

[Source: Added at 34 Ok Reg 599, eff 7-11-17 (emergency); Added at 35 Ok Reg 911, eff 9-14-18]

#### **145:15-1-5. Petition requesting promulgation, amendment or repeal of a rule**

All interested persons may request the Oklahoma Department of Emergency Management to promulgate, amend or repeal a rule. Such request shall be in writing, signed by the person seeking the change, state the rule involved, the alleged need or necessity therefore, whether it conflicts with any existing rule, and what statutory provisions, if any, are involved. If the request is approved, notice will be given that such proposal will be formally considered for adoption. If it is determined that the proposal or request is not a necessary rule, amendment or repeal, the same will be refused and the decision reflected in the records. A copy of the decision will be sent to the person who submitted the request.

[Source: Added at 34 Ok Reg 599, eff 7-11-17 (emergency); Added at 35 Ok Reg 911, eff 9-14-18]

#### **145:15-1-6. Filing and disposition of petitions for declaratory rulings**

Any person who may be directly affected by the existence or application of any of the rules of the Oklahoma Department of Emergency Management that the Authority shall enforce may request in writing an interpretation or ruling regarding the application of such rule to a particular set of facts. Such request shall be in writing, signed by the person seeking the ruling, state the rule involved, and contain a brief and concise statement of facts to which the ruling shall apply. The Authority will make the final determination of the interpretation or ruling. Such interpretation of the rule will be furnished in writing within a reasonable time to the person making the request.

[Source: Added at 34 Ok Reg 599, eff 7-11-17 (emergency); Added at 35 Ok Reg 911, eff 9-14-18]

#### **145:15-1-7. Relief from rules**

Whenever compliance with any requirement of this Chapter would result in unreasonable hardship upon or excessive expense to a party or parties subject to the rules of this Chapter, the Authority may, upon application and for good cause shown, issue an order waiving or modifying the requirements of this Chapter. The Authority may grant temporary relief pending hearing.

[Source: Added at 34 Ok Reg 599, eff 7-11-17 (emergency); Added at 35 Ok Reg 911, eff 9-14-18]

### **SUBCHAPTER 3. OKLAHOMA 9-1-1 MANAGEMENT AUTHORITY**

#### **145:15-3-1. Officers**

- (a) The Oklahoma 9-1-1 Management Authority shall have the following officers:
- (1) **Chair.** It shall be the duty of the Chair to conduct the meetings. The Chair shall appoint all standing committee chairs who shall form, along with the Vice Chair and the Secretary, the Executive Committee.
  - (2) **Vice Chair.** The Vice Chair shall conduct the meetings in the absence of the Chair, and shall perform such other duties as may be assigned by the Chair or the Authority.
- (b) Officers shall serve in office for one year and may serve in the same office for no more than two consecutive one year terms.
- (c) Nominations for a slate of officers shall be presented to the full Authority by the Nominating Committee.

[Source: Added at 34 Ok Reg 599, eff 7-11-17 (emergency); Added at 35 Ok Reg 911, eff 9-14-18]

### **145:15-3-2. Committees**

- (a) The Authority shall have the following standing committees:
- (1) **Administrative Committee.** The duties of the Administrative Committee shall include the following:
    - (A) recommending changes to administrative rules;
    - (B) advising on issues of budget and finance;
    - (C) recommending certification of PSAPs for funding;
    - (D) overseeing the distribution of grants;
    - (E) recommending the escrow of funds;
    - (F) reviewing PSAP annual reports;
    - (G) conducting or reviewing audits of fee collections;
    - (H) recommending areas for grant funding emphasis; and
    - (I) such tasks as the Chair deems advisable, subject to the approval of the Authority.
  - (2) **Technical Committee.** The duties of the Technical Committee shall include the following:
    - (A) developing a plan to deploy Next-Gen 9-1-1 services statewide;
    - (B) recommending 9-1-1 equipment standards for use in competitive bidding and contracting;
    - (C) developing model plans to facilitate equipment and technology sharing;
    - (D) identifying state, federal and industry programs and standards beneficial for the deployment of Next-Gen 9-1-1 statewide;
    - (E) recommending areas for grant funding emphasis;
    - (F) conducting an inventory of the 9-1-1 infrastructure;
    - (G) identifying call routing and networks in use by PSAPs; and
    - (H) such tasks as the Chair deems advisable, subject to the approval of the Authority.
  - (3) **Operations Committee.** The duties of the Operations Committee shall include the following:
    - (A) developing training program standards for 9-1-1 call takers;
    - (B) reviewing PSAP annual report items that relate to national emergency dispatch standards;
    - (C) recommending improvement plans for PSAPs who have failed to deploy Phase II service or have failed to deliver service consistent with NENA standards;
    - (D) developing best practices for PSAP operations;

- (E) formulating a Strategic Plan as a guide for statewide coverage and interoperability between PSAPs;
- (F) recommending areas for grant funding emphasis; and
- (G) such tasks as the Chair deems advisable, subject to the approval of the Authority.

(4) **Executive Committee.** Members of the Executive Committee shall be the officers and standing committee chairs.

(b) Ad hoc committees may be established by the Chair or by the majority vote of the Authority. Non-members may be appointed to ad-hoc committees subject to the Authority's approval. The Chair of each ad hoc committee must be a member of the board. The Chair is not included as a member of the Executive Committee.

[Source: Added at 34 Ok Reg 599, eff 7-11-17 (emergency); Added at 35 Ok Reg 911, eff 9-14-18]

### **145:15-3-3. Meetings**

(a) The Authority shall approve a schedule of regular meetings for the upcoming calendar year by December 15 of each year. In the event that the authority fails to approve a schedule of meetings, the Chair may file a schedule of meetings pursuant to the Open Meetings Act and submit the schedule to the Authority for approval at the next regularly scheduled meeting.

(b) Special meetings may be called by the Chair or by a majority of the Authority present at a duly called meeting.

(c) A quorum of the Authority must be present for any business to be conducted. A majority of the filled seats of the Authority shall constitute a quorum.

[Source: Added at 34 Ok Reg 599, eff 7-11-17 (emergency); Added at 35 Ok Reg 911, eff 9-14-18]

## **SUBCHAPTER 5. REPORTING REQUIREMENTS**

### **145:15-5-1. Annual reports**

(a) Public agencies shall submit an annual report on a form to be prescribed by the Authority no later than September 1 of each year. The report shall cover the immediately preceding fiscal year of the public agency.

(b) The annual report shall contain the following:

- (1) information regarding the operation and financing of the PSAP;
- (2) all sources of funding available to the public agency for the provision of 9-1-1 services;
- (3) a copy of the most recent annual audit showing all expenses of the public agency relating to the 9-1-1 emergency telephone system;
- (4) information demonstrating that the public agency delivered service consistent with National Emergency Number Association (NENA) standards;
- (5) information demonstrating that the public agency has deployed Phase II service or has complied with the terms of a master plan to deliver Phase II that has been previously approved by the Authority; and
- (6) any additional information deemed necessary by the Authority.

(c) The annual report will be reviewed by the Coordinator who may request additional information as necessary. A representative of the public agency may be requested to present the annual report to the Authority. The Authority will review the annual report and approve, modify, request additional information or reject the report.

(d) Failure by a public agency to submit the report annually or denial of a report may cause the Authority to order the Tax Commission to escrow the 9-1-1 emergency telephone fees due to the public agency until the public agency complies with the requirements of the Oklahoma 9-1-1 Management Authority Act and the procedures established by the Authority. [63:2868]

(e) Public agencies shall timely notify the Authority in the event that the name, contact information or response area of the PSAP changes. Failure to timely notify the Authority may result in delay of funding.

[Source: Added at 34 Ok Reg 599, eff 7-11-17 (emergency); Added at 35 Ok Reg 911, eff 9-14-18]

#### **145:15-5-2. Audits of service providers**

An audit of a wireless service provider or VoIP provider may be requested by the State Auditor and Inspector, the Authority or any affected public agency. If the audit results in a finding that the provider has collected and remitted fees in accordance with the Act, the Authority will approve the audit. Upon approval of the audit by the Authority, the provider may request reimbursement of audit expenses by submitting a written request and supporting documentation to the Authority.

[Source: Added at 34 Ok Reg 599, eff 7-11-17 (emergency); Added at 35 Ok Reg 911, eff 9-14-18]

### **SUBCHAPTER 7. DISBURSEMENT OF 9-1-1 TELEPHONE FEES**

#### **145:15-7-1. Annual determination of eligibility and population**

(a) The Authority will establish a preliminary list of eligible governing bodies entitled to receive 9-1-1 telephone fees and establish preliminary annual population figures for the purpose of distributing fees collected pursuant to the Act. Population figures will be derived by dividing the population of each public agency's response area by the total population of the state using data from the latest available Federal Census estimates. An agency's response area is defined as the territory within which landline 9-1-1 calls are directed to the agency to be answered.

(b) If a public agency disputes the Authority's preliminary determination regarding the population of the public agency's response area, the public agency shall be permitted to present information regarding the population of the public agency's response area to the Authority at the Authority's next regularly scheduled meeting. If the Authority determines that an error was made, the Authority may correct the population figures.

(c) If no preliminary list is disputed, or if the Authority adjusts a disputed preliminary list, such list shall become final and shall be submitted to the Tax Commission.

(d) If more than one public agency operates in the same response area, providing different types of 9-1-1 call answering service (VoIP, Wireless, Landline), the public agencies shall enter into a written agreement regarding the percentage of the total population of the response area that will be attributed to each public agency for purposes of distributing funds under the Act. The details of the agreement shall be submitted by each public agency in the annual report. If the public agencies fail to enter into such an agreement, the population of the public agency answering wireless calls will be approved. The public agencies shall submit all information deemed necessary by the Authority to aid in the determination.

[Source: Added at 34 Ok Reg 599, eff 7-11-17 (emergency); Added at 35 Ok Reg 911, eff 9-14-18]

#### **145:15-7-2. Escrow of funds**

(a) Pursuant to section 2864 of Title 63 of the Oklahoma Statutes, the Authority may direct the Tax Commission to escrow all or any portion of funds collected pursuant to the Act attributable to a public agency if the public agency fails to:

- (1) submit or comply with master plans to deliver Phase II 9-1-1 wireless locating services as required by this Act and approved by the Authority;
- (2) meet standards of the National Emergency Number Association (NENA) limited to call-taking and caller-location technology or comply with an improvement plan to meet such standards as directed by the Authority;
- (3) submit annual reports or audits as required by the Act; or
- (4) comply with the requirements of the Act or procedures established by the Authority.

(b) If the Authority has reason to believe that grounds exist for the Authority to escrow funds attributable to a public agency, the Coordinator shall communicate the grounds to the public agency. The public agency shall be given an opportunity to present information to the Authority to show compliance with the Act and this Chapter.

(c) If the Authority determines that the public agency has failed to comply with any of the requirements in subsection (a) of this Section, the Authority may direct the Tax Commission to escrow all or any portion of funds attributable to the public agency. The Authority may lift the escrow order if the public agency shows compliance with the requirements of the Act or the procedures established by the Authority with which the public agency was found to be in non-compliance.

(d) If the Authority determines that the public agency has failed to comply with subsection (a)(1) or (a)(2) of this Section, the public agency shall submit an improvement plan to be Authority within 90 days of the Authority's finding of non-compliance. The Authority will approve, modify or deny the improvement plan and establish a time period for the public agency to come into compliance. If the public agency fails to submit an acceptable improvement plan or fails to comply with the improvement plan, the Authority may direct the Tax Commission to escrow all or any portion of funds attributable to the public agency. The Authority may lift the escrow order upon a showing of compliance with the requirements of the Act or the procedures established by the Authority with which the public agency was found to be in non-compliance or upon acceptance by the Authority of a new improvement plan. If the public agency determines that it cannot comply with the terms of the improvement plan, the public agency may request approval to modify the terms of the plan.

[Source: Added at 34 Ok Reg 599, eff 7-11-17 (emergency); Added at 35 Ok Reg 911, eff 9-14-18]

### **145:15-7-3. Eligible use list of approved expenditures for landline and wireless 9-1-1 fee revenue**

Public agencies or public safety answering points ("PSAPs") who receive wireline and wireless 9-1-1 fee revenue from local telephone exchanges and the Oklahoma Tax Commission may only spend such funding on the eligible uses listed below:

#### **(1) Enhanced 9-1-1 services.**

- (A) Enhanced 9-1-1 Phase II wireless technology, NG9-1-1, or successor 9-1-1 technology (defined as: technology and maintenance needed to transmit voice, data, and text from the 9-1-1 caller to the 9-1-1 center call-taker);

- (B) Mapping display for call answering positions that are ANI/ALI equipped;
- (C) 9-1-1 GIS services;
- (D) TTY required for compliance with the Americans with Disabilities Act ("ADA");
- (E) 9-1-1 information technology services;
- (F) 9-1-1 Management Information System ("MIS") for reporting purposes;
- (G) Cyber security of the 9-1-1 system; or
- (H) Clock synchronizer and maintenance for 9-1-1 purpose.

**(2) Administration.**

- (A) Human resources services;
- (B) Legal costs;
- (C) Financial services, including 9-1-1 financial audits;
- (D) 9-1-1 public education coordination;
- (E) Voice and radio/data recorder and maintenance;
- (F) 9-1-1 Coordinator duties;
- (G) 9-1-1 Coordinator or 9-1-1 office computers, software, and furniture; or
- (H) Expenses needed to gather location information.

**(3) Operations.**

- (A) PSAP and 9-1-1 administrative telephone lines/connections;
- (B) E9-1-1/NG9-1-1 reserve accounts;
- (C) 9-1-1 call receiver salaries and benefits;
- (D) Computer Aided Dispatch ("CAD") by the Public Safety Telecommunicator to manage the 9-1-1 call (excluding legal, fire, EMS, jail, and other ancillary software solutions);
- (E) Hardware/software licensing specifically for display of the field units in the 9-1-1 center, which does not include field responder licensing and hardware;
- (F) Interfaces from CAD or 9-1-1 to external services, such as radio, NCIC, records management systems ("RMS"), and mobile computer systems;
- (G) Radio consoles within the 9-1-1 center, including licensing, and the radio or connectivity needed to broadcast the 9-1-1 information to the field (excluding radio systems, repeaters, subscriber units, portable/mobile radios used in the field, or any other communication median beyond the dispatch center);
- (H) Call taker protocols; or
- (I) Office supplies needed for the delivery of 9-1-1 services.

**(4) Facility.**

- (A) PSAP and 9-1-1 facility lease/purchase costs;
- (B) E9-1-1 building repair and maintenance, including major systems replacement or repair;
- (C) E9-1-1 property and liability insurance;
- (D) Auxiliary generator and generator maintenance to provide 9-1-1 eligible equipment;
- (E) Console furniture for 9-1-1 call receiving equipment and maintenance; or
- (F) Uninterruptible power supply ("UPS") for PSAP enhanced 9-1-1 equipment and maintenance.

**(5) Training.**

- (A) Coordinator professional development;
- (B) 9-1-1 Public Safety Telecommunicator professional development and operational training;
- (C) Cyber security training related to 9-1-1;
- (D) Social media security training related to 9-1-1; or
- (E) 9-1-1 professional subscriptions and memberships.

[Source: Added at 40 Ok Reg 8, eff 8-9-22 (emergency); Added at 40 Ok Reg 873, eff 8-11-23]

## **SUBCHAPTER 9. GRANT PROGRAM**

### **145:15-9-1. Purpose**

Pursuant to Section 2864 of Title 63 of the Oklahoma Statutes, the Authority may award grants to eligible entities for the purposes of assisting public agencies with funding for consolidation of facilities or services, deployment of Phase II technology or successor technology, development of next-generation 9-1-1 regional emergency service networks, and for other purposes it deems appropriate and necessary. Multiple grants may be awarded to eligible entities in any given year.

[Source: Added at 34 Ok Reg 599, eff 7-11-17 (emergency); Added at 35 Ok Reg 911, eff 9-14-18]

### **145:15-9-2. Application process**

- (a) Upon a determination by the Authority that funds are available for grants, the Authority will notify potential applicants through the Authority's website. The Authority may determine the application requirements, funding priorities and evaluation criteria. The application requirements may include, but are not limited to, the submission of letters of intent.
- (b) Any PSAP is eligible to submit an application to the Authority. The application shall be completed by an individual employed by or affiliated with the PSAP and shall include all information and attachments requested.
- (c) If an application is not submitted by the designated date and time, it shall be returned without consideration. Timely applications are reviewed by the Authority, or a committee appointed by the Chair, to determine completeness. The Committee may require any applicant to provide additional information. An application is not considered final until all requested information has been submitted.
- (d) An application that is not reviewed for any failure on the part of the applicant shall be deemed to be a withdrawal of the application.

[Source: Added at 34 Ok Reg 599, eff 7-11-17 (emergency); Added at 35 Ok Reg 911, eff 9-14-18]

### **145:15-9-3. Award process**

- (a) Submission of a final application does not guarantee the award of a grant.
- (b) In anticipation of receiving applications for funding greater than the program funds available, evaluation criteria will be used to rank the applications. These criteria will be developed by the Administrative Committee.
- (c) Applications will be evaluated and ranked by Committee members, or by others as requested. Applications with the highest evaluation will be recommended for funding to the extent of funds available.
- (d) Applications submitted to the agency remain confidential until a decision is made by the Authority. The final decision to award shall be made at the sole discretion of the Authority.
- (e) All applicants will receive written notification of final award status.

(f) The mechanism for funding approved applications may be a cooperative agreement between the authority and the grantees. Grantees shall abide by the terms and conditions of the cooperative agreement.

[Source: Added at 34 Ok Reg 599, eff 7-11-17 (emergency); Added at 35 Ok Reg 911, eff 9-14-18]

**145:15-9-4. Grant administration and evaluation**

- (a) Proper documentation of each expense is required, including paid invoices, cancelled checks, payroll receipts, time records and other pertinent proof of expenditures. Grant funds may not be used for ongoing operating costs of any emergency telephone system.
- (b) Grantees shall be subject to performance evaluations as to their compliance with the terms and conditions of the cooperative agreement and may be audited as appropriate.
- (c) Grantees shall keep a file on awarded grants, and include copies of grant award, applications, claims, invoices and cancelled checks, as appropriate, in order to comply with audits.
- (d) Failure to complete an awarded project may result in repayment of claimed funds and ineligibility to receive other awards.
- (e) Grants may be cancelled by the Authority in the event of noncompliance or lack of progress by grantee. Written notification of cancellation or withholding of funds will be provided to defaulting grantees. Grantees shall be given an opportunity to cure the default. The final decision to cancel the grant shall be made at the sole discretion of the Authority.

[Source: Added at 34 Ok Reg 599, eff 7-11-17 (emergency); Added at 35 Ok Reg 911, eff 9-14-18]