

Specific Fiduciary Agent (FA) Responsibilities

A Fiduciary Agent (FA) is a person required to act for the benefit of another (the principal) with the duties of good faith, trust, confidence, reasonable care and diligence, loyalty, disclosure, accounting, and candor. This duty obligates the FA to act in the best interest of the principal. Specific duties include:

- 1. Act as the principal point of contact with FEMA for application, management, reporting (both programmatic and financial as identified in the PSGP supplemental Guidance) and administration of the FY 2007 Supplemental PSGP grant award.**
 - a. This includes all Categorical Assistance Progress Reports and Financial Status Reports.
- 2. The FA will be responsible to the Area Maritime Security Committee (AMSC) for utilizing grant funds as directed by the committee.**
- 3. Apply for the award via grants.gov. The FA will also be responsible for all other submission requirements.**
- 4. Establish and maintain accounting systems and financial records to accurately account for funds awarded to them.**
 - a. It is important to note that none of these requirements are the same requirements of any Federal grant recipient
 - b. Subrecipients of funds shall follow the financial management requirements imposed on them by the FA, which must comply with the requirements FEMA/NPD has imposed on the FA.
 - c. Where the conduct of a program or one of its components is delegated to a subrecipient, the FA is responsible for all aspects of the program, including proper accounting and financial recordkeeping by the subrecipient. Responsibilities include the accounting of receipts and expenditures, cash management, maintenance of adequate financial records, and refunding expenditures disallowed by audits.
 - d. FA and Subrecipient Accounting Responsibilities:
 - i. Reviewing Financial Operations - FAs should be familiar with, and periodically monitor, their subrecipients' financial operations, records, systems, and procedures. Particular attention should be directed to the maintenance of current financial data.
 - ii. Recording Financial Activities - The subrecipient's award or contract obligation, as well as cash advances and other financial activities, should be recorded in the books of the FA in summary form. Subrecipient expenditures should be recorded on the books of the FA or evidenced by report forms duly filed by the subrecipient. Non-Federal contributions (matching funds) applied to programs or projects by subrecipients should likewise be recorded, as should any program income resulting from program operations. All financial records must validate expenditures related to the respective grant(s).
 - iii. Budgeting and Budget Review - The FA should ensure that each subrecipient prepares an adequate budget on which its award

commitment will be based. The detail of each project budget should be maintained on file by the FA.

- iv. Accounting for Non-Federal Contributions - FAs will ensure that the requirements, limitations, and regulations pertinent to non-Federal contributions are applied.
- v. Audit Requirements - FAs must ensure that subrecipients have met the necessary audit requirements.
- vi. Reporting Irregularities - FAs and their subrecipients shall promptly notify the awarding agency and the Federal cognizant audit agency of any illegal acts or irregularities and of proposed and actual actions, if any. Illegal acts and irregularities include conflicts of interest, falsification of records or reports, and misappropriation of funds or other assets. Should an FA become aware of any criminal activity related to Federal assistance, these criminal acts should be reported to the appropriate law enforcement agency.
- vii. Debarred and Suspended Organizations - FAs and subrecipients must not award or permit any award at any level to any party that is debarred or suspended from participation in Federal assistance programs.
- viii. Bonding - The awarding agency (FEMA) may require adequate fidelity bond coverage where the FA and subrecipient lacks sufficient coverage to protect the Federal government interest (see OMB Circular A-110, Subpart C, paragraph 21(c) and OMB Circular A-122).

5. Monitoring Project Performance

Monitoring is a process whereby the programmatic progress and financial and business management aspects of a financial assistance award are reviewed by assessing information gathered from program and financial reports, site visits, teleconferences, and other means. FEMA/NPD requires financial assistance FAs to have adequate management systems to ensure that project objectives are met and funds are spent and accounted for properly. To the extent possible, financial assistance award monitors rely on the management systems of the financial assistance FAs to meet project objectives, comply with award terms and conditions, and account for funds.

- a. FA and Subrecipients Responsibilities:
 - i. The FA and subrecipient have full responsibility for the conduct of the project or activity supported and for the results achieved. The FA and subrecipient must monitor the performance of the project to assure adherence to performance goals, time schedules or other requirements as appropriate to the project or the terms of the agreement. The FA and subrecipient are responsible for monitoring the activities of and pass-through requirements.
- b. Federal (FEMA/NPD) Responsibilities:
 - i. It is FEMA/NPD's practice to limit involvement between itself and the FA in the performance of a project to the minimum necessary to achieve program objectives and to ensure conformance with

requirements of the grant. The Federal role is that of a partner, where the Government provides the financial assistance and the FA carries out the project activities. In the case of a cooperative agreement, substantial involvement is expected between the Federal agency and the State, local government, or FA when carrying out the activity contemplated in the agreement.

6. **The Fiduciary Agent is obligated to safeguard the AMSC's or subrecipient's lawful confidences and secrets. Therefore, an FA must keep confidential any information that may weaken a principal's bargaining position.**
7. **An FA is obligated to use reasonable care and diligence when pursuing the AMSC's or subrecipient's affairs.**
 - a. FAs are required to establish and maintain accounting systems and financial records to accurately account for funds awarded to them. These records shall include both Federal funds and all matching funds of State, local, and private organizations, when applicable. Subrecipients shall follow the financial management requirements imposed on them by the FA, which must comply with the requirements FEMA/NPD has imposed on the FA.

In order to limit the liability of the FA for misuse of funds, The FA and their subrecipients shall promptly notify the awarding agency and the Federal cognizant audit agency of any illegal acts or irregularities and of proposed and actual actions, if any. Illegal acts and irregularities include conflicts of interest, falsification of records or reports, and misappropriation of funds or other assets. Should a recipient become aware of any criminal activity related to Federal assistance, these criminal acts should be reported to the appropriate law enforcement agency.

8. **For further detailed guidance, the FA should refer to the FY 2007 Port Security Grant Program (PSGP) Supplemental Guidelines as well as FEMA/NPD's Financial Management Guide which can be found on the Web at:**
http://www.ojp.usdoj.gov/odp/docs/Financial_Management_Guide.pdf