

EMPG/EPCRA GRANT POLICY STATEMENT

Effective November 1, 2005

1. Only County Emergency Management Offices are eligible to receive Emergency Management Performance Grant (EMPG) funds. County Local Emergency Planning Committees (LEPC), as well as the County Emergency Management Offices, are jointly eligible to receive Emergency Planning and Community Right-to-Know Act (EPCRA) Planning and Administration Grant funds.
2. Counties must meet all applicable Federal Emergency Management Agency (FEMA) requirements and all applicable Wisconsin statutes to become and/or remain eligible for EMPG funding. These requirements are set forth in 44 CFR 302, as well as in Wisconsin State Statute Chapter 166.

In order to be eligible for funding under the EPCRA Planning and Administration Grant Program, LEPC and County Emergency Management Offices must jointly meet appropriate applicable requirements as set out in Title II of the Superfund Amendment and Reauthorization Act, Wisconsin State Statute Chapter 166.20, 166.21, as well as all administrative rules established by Wisconsin Emergency Management (WEM).

3. In order to be eligible for EMPG funding, a County must have an approved personnel merit system consistent with personnel standards as prescribed in 5 CFR Chapter 1, Part 900. All EMPG funded positions at the County level, except those of coordinator/director which are specifically exempt, must be appointed through and serviced by the approved merit system as set out in the referenced section of in 5 CFR Chapter 1, Part 900. Counties are required, on an annual basis, to file DMA Form 1140 to certify the existence of a local personnel merit system.
4. In order to become eligible to receive EMPG and/or EPCRA funds, all Counties are required to file a Letter of Intent to participate by May 1st of each year. This Letter of Intent to participate will apply to the upcoming Federal Fiscal Year and must be filed with the WEM Administrator through the appropriate Regional Office.
5. Two (2) or more Counties may enter into an agreement to establish a joint Emergency Management organization and/or an LEPC with the approval of the WEM Administrator. Any agreement must specify administrative and fiscal responsibility with regards to both the EMPG funds and EPCRA funding. Copies of the approved and signed agreement must be placed on file with the WEM Office in Madison, as well as with the appropriate Regional Office.
6. Each County shall designate an Emergency Management director/coordinator and have an established LEPC as required in Wisconsin State Statute Chapter 166. Position descriptions for County employees receiving EMPG and/or EPCRA funds must be filed annually with the Plan of Work or verification must be provided in writing indicating that there have been no changes in position description as previously provided to WEM. Position descriptions must set out specific duties as related to Emergency Management including the EPCRA duties and include percentages of time devoted to those duties and must be signed by the employee and the employer or County Board Chairman. If a county position description does not normally include percentages of time for major duties, an addendum sheet shall be added to the job description, which includes the percentages of time for major duties, a statement, which indicates that the addendum is true and correct, and signatures of the Emergency Management Director and his/her supervisor. All position descriptions will be submitted for review and approval of the WEM Administrator or the designee.

When changes in duties and responsibilities occur, a revised position description must be submitted for review and approval of the WEM Administrator or the designee within 60 days of the change of duties. If a County position description does not meet the Division's EMPG policy with regards to established time percentages, the County will lose EMPG eligibility for that position.

7. Counties shall establish a tracking system to document support costs and time spent in EMPG and/or EPCRA related duties. The tracking system will also serve as an audit trail for EMPG and/or EPCRA

claims. The tracking system at the County level must support the figures submitted on DMA Form 1037 as a means of substantiating biannual EMPG claims.

8. An approved Emergency Operations Plan (EOP) must be in effect and required updates must be developed, completed and submitted for review to the appropriate Regional Office by the end of the update cycle as established by WEM, and set out in the County's approved annual Plan of Work.

The County EOP must conform to all applicable State requirements as set out in Wisconsin Statutes Chapter 166, as well as the County EOP standards and review criteria as provided by WEM. The EOP Annexes also need to reflect the Hazardous Materials requirements as noted in federal EPCRA guidance, and support implementation of the EPCRA Countywide Plan.

The County Hazard Analysis is a stand-alone document and must be updated on an annual basis. The update of the County Hazard Analysis shall incorporate by reference or inclusion, the appropriate portions of the EPCRA Countywide Plan that details information regarding specific hazardous materials risks.

A policy decision has been made to transition the State EOP to the National Response Plan format. In order for County plans to be consistent with the State plan as required by State Statute, the process of converting the County EOP to the County Response Plan began in FFY 2005 and will continue through FFY 2006, at which time the County EOP will be discontinued. The Basic Plan and ESFs will remain in draft form until the County Response Plan is completely developed (expected by the end of FFY 2006). In the interim, County directors will need to maintain, at a minimum, contacts and phone numbers in the County EOP.

9. For funding eligibility, the annual Plan of Work, as negotiated between each County and WEM must be submitted and the work activities performed as approved. **Any significant proposed changes in the approved Plan of Work must be submitted, in writing, for approval to the appropriate Regional Office at least 30 days prior to the end of the reporting period in which the work was to have been accomplished.**
10. A County must report bi-annually on accomplishments toward the completion of the approved annual Plan of Work. **Any work item not completed must be explained in writing when the bi-annual progress report is submitted to the appropriate Regional Office for review.** Any Plan of Work requirement or activity not completed will be rescheduled for completion within the next reporting period, or as approved in an extension request from the County through the Regional Office.

Failure of a County to complete specific EMPG requirements may subject the County to the withholding or loss of EMPG funds only. Failure of a County to complete specific EPCRA requirements may subject the County to the withholding or loss of EPCRA funds only.

Changes in completion of required Plan of Work activities that go beyond a specific Plan of Work year must receive the approval of the WEM Administrator or the designee, and must be properly reflected in the subsequent year's Plan of Work. Any other extenuating circumstances that cause a delay in completion of required Plan of Work elements will be reviewed by the Regional Director on a case-by-case basis.

11. In the event that, based upon the bi-annual progress reports, there is a Regional Office recommendation that a County's EMPG funding be lost, the County has the right to contest that decision. The County shall have 30 days in which to file a written notice appealing the decision in question. The appeals process will be as follows:

- A. State Administrative Review:

The County shall submit to the Director of the Bureau of Response and Recovery a written summary of the issues and facts upon which the County appeals of the Regional Office decision is based. The Bureau Director will review the appeal information and issue a decision within 30 days.

B. Federal Administrative Review:

The County has the option to appeal the decision of the State Administrative review pursuant to the provisions of 44 CFR Part 302.3(G)(2).

12. Reimbursement to a County for successful completion of Plan of Work items scheduled for the previous six-month reporting period will be provided within forty-five (45) days from the date of approval of the County's bi-annual progress report by the appropriate Regional Director.
13. An audit of County records pertaining to the receipt of EMPG and/or EPCRA funds may be conducted at the discretion of the WEM Administrator.

Whenever it is revealed that a County Emergency Management Program has received EMPG and/or EPCRA funds at levels that exceed their eligibility, the County receiving the assistance will be responsible for repayment of the excessive funding.

14. WEM encourages the establishment and/or retention of full-time County Emergency Management Directors. Full-time is defined as any County Director's position in which 100% of the time set out in the required position description is allocated to the County Emergency Management Program, or closely related duties. The number of hours per week allocated to a full-time position will be based on the individual County definition of full-time for comparable positions within that County.
15. The annual Plan of Work will be developed to reflect the minimum program requirements for full or part-time positions based upon the County's grant application request. Part-time is defined as any position, which is less than full-time as defined by the County. Any position that is designated at a percentage for EMPG purposes will devote 100% of that designated percentage to the Emergency Management Program, or closely related duties.
16. EMPG funding will not be made available for any County Director's position at less than half time without the express written approval of the WEM Administrator or the designee.
17. EMPG funds are provided only for the reimbursement of salary and fringe benefits for the Emergency Management Director or positions that work in direct support of the County Plan of Work requirements and Emergency Management Program. Allocated EMPG funds that are not expended on salary and fringe benefits can be applied to program support costs as listed on the EMPG budget sheet, Form 1036. EPCRA funds can be used to support Emergency Management activities and/or positions that comply with the requirements of Wisconsin State Statutes Chapter 166.20, 166.21 and the Federal Act. In any event, the combined grant award shall not exceed actual expenditures.
18. An LEPC shall have thirty (30) days after receipt of the final grant award notification in which to file an appeal. The order of the appeal process will be:
 - A. Administrative Review:
The appeal shall be reviewed by the WEM Administrator and may be referred to an LEPC Advisory work group.
 - B. If the situation is still not resolved, an LEPC may then request a problem resolution process in which the Adjutant General of the Department of Military Affairs reviews the materials submitted by the County and issues a decision based on those materials or meets with the parties to negotiate an acceptable resolution to the problem.
 - C. Administrative Hearing:
An LEPC may request an administrative hearing under Chapter 227 of the State Statutes.
 - D. An LEPC can file an appeal request with the Circuit Court of Appeals.