



## Equitable COVID-19 Response and Recovery

### FEMA Job Aid

On March 16, 2021, FEMA issued the updated *Coronavirus (COVID-19) Pandemic: Medical Care Eligible for Public Assistance (Interim) (Version 2) (Medical Care Policy)*.<sup>1</sup> The *Equitable COVID-19 Response and Recovery Recipient and Subrecipient Job Aid*<sup>2</sup> defines the process Recipients and Subrecipients must take to document that pandemic response and recovery efforts are conducted in an equitable manner. Recipients and Subrecipients should use the Department of Homeland Security's [Civil Rights Evaluation Tool](#) and [FEMA's Civil Rights Considerations During COVID-19 Vaccine Distribution Efforts](#) checklist to evaluate their own compliance and ensure they are conducting COVID-19 response and recovery efforts in an equitable manner. This *Equitable COVID-19 Response and Recovery FEMA Job Aid (Job Aid)* defines roles and responsibilities, processes, and remedies to ensure COVID-19 vaccine administration is equitable.

The following laws and Executive Orders (EOs) establish requirements pertaining to nondiscrimination:

- Title VI Civil Rights Act of 1964
- The Education Amendments Act of 1972
- The Rehabilitation Act of 1973
- The Age Discrimination Act of 1975
- The Robert T. Stafford Disaster Relief and Emergency Act (Stafford Act) 1988
- Americans with Disabilities Act of 1990
- EO 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations
- EO 13166, Improving Access to Persons with Limited English Proficiency
- EO 13985, Advancing Racial Equity
- EO 13988, Preventing and Combating Discrimination on the Basis of Gender Identity or Sexual Orientation
- EO 13994, Ensuring a Data-Driven Response to COVID-19
- EO 13995, Ensuring an Equitable Pandemic Response and Recovery
- EO 14002, Economic Relief Related to COVID-19

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<sup>1</sup> [Coronavirus \(COVID-19\) Pandemic: Medical Care Eligible for Public Assistance \(Interim\) \(Version 2\) \(Medical Care Policy\)](#).

<sup>2</sup> [Equitable COVID-19 Response and Recovery Recipient and Subrecipient Job Aid](#).



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- EO 14008, Tackling the Climate Crisis

### Roles and Responsibilities Overview

Each Recipient or Subrecipient requesting Public Assistance (PA) funding for vaccination efforts and associated activities will submit social vulnerability scores and information to substantiate an equitable vaccine administration strategy.<sup>3</sup> Recipients and Subrecipients with sites that support vaccine administration, such as call centers, will submit relevant information to demonstrate how the activities supported equitable vaccine administration. Deadlines for the submission of information to FEMA vary based on the status of vaccination operations and FEMA funding, as shown in Table 1. The information is submitted at the Applicant level, not the project level. The only Group that submits the information with a project is Group 1C.

**Table 1: Information Submittal Requirements and Deadlines**

		Project Application and Vaccination Funding Status			
		FEMA has already obligated funding for vaccination work	Recipient/ Subrecipient has applied, but FEMA has not yet obligated	Recipient/ Subrecipient has not yet applied	
		Group	A	B	C
Vaccination Work Status	All vaccination work is complete	1	One submission no later than 4/14/21 (30 days from issuance of the Medical Care Policy)	One submission, within 30 days of obligation	One submission, with initial request for FEMA vaccination funding
	Vaccination work not yet complete	2	First submission no later than 4/14/21 (30 days from issuance of the Medical Care Policy), updates every 30 days until work is complete	First submission within 30 days of obligation, updates every 30 days until work is complete	First submission within 30 days of obligation, updates every 30 days until work is complete

<sup>3</sup> Medical Care Policy, Section B.3.c.



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Recipients should review Subrecipient submissions per the FEMA-State/Tribal Agreement and identify where Subrecipient's narrative information fits into the Recipient's overall equitable vaccine administration strategy.

Regional PA staff conduct monthly reviews of information submitted by Recipients and Subrecipients to confirm all required information is included and conduct an initial check of compliance with the Medical Care Policy. Upon completion of PA review, FEMA's Office of Equal Rights (OER) conducts evaluations at the Recipient level (inclusive of its Subrecipients) monthly to ensure compliance with civil rights laws and Executive Orders (EO). OER has been delegated authority to make findings of noncompliance with these laws and EOs.

#### Regional PA Review Steps

Regional PA staff will ensure timeliness and completeness of each submission and identify potential areas of concern. Regional PA Staff:

1. Confirm that each Recipient or Subrecipient submits information by the deadlines outlined in Table 1: *Information Submittal Requirements and Deadlines*.
2. Within 14 days of receipt of a submission, Regional PA staff conduct an initial review using the checklist in Appendix A: *PA Review Checklist for Equitable COVID-19 Vaccine Administration*.
3. If the submission is missing required information, Regional PA staff request the information as outlined in the "Remedies" section below.
4. If the information is complete, but there are areas of concern in addition to the checklist upload in Step 5, Regional PA staff notify OER via [FEMACivilRightsOffice-PARreview@fema.dhs.gov](mailto:FEMACivilRightsOffice-PARreview@fema.dhs.gov) and coordinate with OER on appropriate remedies, as defined below. Email notifications of concern should include Applicant Name, Recipient Name, Regional PA Point of Contact, DR number and vaccination site(s) involved.
5. Upon completion of the PA review, Regional PA staff document findings by uploading the completed checklist in the document section of the respective Applicant Profile in Grants Manager (GM).

#### Office of Equal Rights Review Steps

Upon completion of PA review, OER takes the following steps to review submissions for compliance with equity operations and reporting obligations as follows:

1. OER staff conduct a Civil Rights Evaluation monthly using the checklist in Appendix B.



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2. If OER identifies issues, it engages with Regional PA staff to discuss concerns and identify short-term courses of action.
3. OER uploads the completed Civil Rights Evaluation Checklist in the Applicant's Profile in GM.

### Remedies

OER and Regional PA staff work collaboratively to help Recipients and Subrecipients comply with the Medical Care Policy and the laws and EOs listed above. If potential risks to equitable vaccine administration are identified, Regional PA staff work with the Recipient and Subrecipient to take actions to address areas of concern. Recipients and Subrecipients document actions taken in their next 30-day submittal. Regional PA staff use a progressive process, working with Recipients and Subrecipients to come into compliance.

Regional Administrators do not have the authority to extend timeframes related to vaccination information submissions.<sup>4</sup> If FEMA does not receive the submission by the deadline, Regional PA staff request the information by developing a Request for Information (RFI) and uploading it into the Applicant's Profile in GM within three days of the information submission deadline. Regional PA staff may use the RFI template provided in Appendix C of this Job Aid. FEMA requires responses within seven days of the Subrecipient's receipt of the RFI. The respective Recipient or Subrecipient will need to upload the RFI response to its Applicant Profile by the deadline.

If the information is not received by the RFI deadline, FEMA provides a written ineligibility determination denying or deobligating funding for the vaccination project(s) associated with the respective Subrecipient. FEMA transmits the determination simultaneously to the Recipient and Subrecipient via a method that confirms receipt. This serves as the formal notification of FEMA's determination setting forth the Subrecipient's appeal rights. Regional PA staff may use the Eligibility Determination Memorandum template provided in Appendix D of this Job Aid.

If, after working with the Recipient and Subrecipient, PA and OER reviews continue to find indications of inequitable vaccine administration; OR actions to address concerns are not

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<sup>4</sup> FEMA Delegation Number: FDA 0106-1, Delegation of Authority to the Regional Administrators (2/1/2021) FDA 0106-1 and [the Medical Care Policy](#) do not delegate this authority to the Regional Administrators and the authority to extend the timeframes to submit vaccination information remains with the Assistant Administrator, Recovery.



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possible or were not taken, Regional Administrators may adjust Federal award conditions as indicated in Title 2 Code of Federal Regulations (C.F.R.) § 200.208 *Specific Conditions*<sup>5</sup>, which include the following specific grant conditions:

- Requiring payments as reimbursements rather than advance payments.
- Withholding authority to proceed to the next phase until receipt of evidence of acceptable performance within a given performance period.
- Requiring additional, more detailed financial reports.
- Requiring additional project monitoring.
- Requiring the non-Federal entity to obtain technical or management assistance.
- Establishing additional prior approvals.

Regional Administrators may implement remedies as indicated in 2 CFR § 200.339, *Remedies for Noncompliance*<sup>6</sup>, which may include the following:

- Temporarily withhold cash payments pending correction of the deficiency by the non-Federal entity or more severe enforcement action by the Federal awarding agency or pass-through entity.
- Disallow (that is, deny both use of funds and any applicable matching credit for) all or part of the cost of the activity or action not in compliance.
- Wholly or partly suspend or terminate the Federal award.
- Initiate suspension or debarment proceedings as authorized under 2 CFR Part 180 and Federal awarding agency regulations (or in the case of a pass-through entity, recommend such a proceeding be initiated by a Federal awarding agency).
- Withhold further Federal awards for the project or program.
- Take other remedies that may be legally available.

If FEMA denies funding in accordance with one of the remedies above, the Disaster Recovery Manager (DRM) for the incident will issue a formal ineligibility determination.

Additionally, in circumstances where the Recipient or Subrecipient may have violated one of the laws or EOs, OER implements 44 CFR Part 7.<sup>7</sup>

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<sup>5</sup> Title 2 Code of Federal Regulations (C.F.R.) §200.208.

<sup>6</sup>2 C.F.R. § 200.339.

<sup>7</sup> [44 CFR §7 Nondiscrimination In Federally-assisted Programs.](#)

# Appendix A: PA Review Checklist for Equitable COVID-19 Vaccine Administration

Regional PA Staff review the following for each submission to confirm the information is included and to conduct an initial check of compliance with the Medical Care Policy prior to OER review.

Equitable Vaccine Administration Checklist						
Plan Area	Submitted?		Items to review	Yes	No	If no, please describe concern
	Yes	No				
Overall Strategy			Does the strategy describe: <ul style="list-style-type: none"> <li>• The community’s needs related to race, color, nationality, sex, age, disability, English proficiency, and/or economic status?</li> <li>• Efforts or considerations around collection of anonymized data on race, ethnicity, disability status, primary language, sexual orientation, and gender identity?</li> </ul>			
Outreach and Engagement			Does the outreach and engagement strategy address: <ul style="list-style-type: none"> <li>• Populations within the jurisdiction that may require targeted or adjusted outreach and engagement, such as Limited English Proficiency (LEP) individuals, individuals with disabilities, or low-income individuals?</li> <li>• How to reach high-risk communities and underserved populations?</li> </ul>			
Registration Process			Does the registration process address: <ul style="list-style-type: none"> <li>• Advancement of equity for minoritized, marginalized, or otherwise disadvantaged groups?</li> <li>• Considerations of the needs of individuals with disabilities and limited English proficiency?</li> </ul>			

# Appendix A: PA Review Checklist for Equitable COVID-19 Vaccine Administration

Equitable Vaccine Administration Checklist						
Plan Area	Submitted?		Items to review	Yes	No	If no, please describe concern
	Yes	No				
Physical Site Design and Access			Do the Physical Site Design and Access Considerations address: <ul style="list-style-type: none"> <li>• Considerations of the needs of individuals with disabilities?</li> <li>• Transportation to or mobile vaccination sites for individuals with limited mobility?</li> <li>• Mobile vaccination sites for rural areas, if applicable?</li> </ul>			
Evaluation and Continuous Improvement			Does the Evaluation and Continuous Improvement Plan identify: <ul style="list-style-type: none"> <li>• Data sources, proxies, or indices that are used to develop and meet short-term targets for equitable delivery of vaccinations?</li> </ul>			
Site-Specific Information			Does the Site-Specific Information include: <ul style="list-style-type: none"> <li>• Social Vulnerability Index or other vulnerability scores for vaccine sites?</li> <li>• Descriptions of how the location of individual sites or the overall site selection strategy supports the highest-risk communities?</li> </ul>			

# Appendix B: OER Review Checklist

FEMA OER staff use this checklist to validate Applicant-provided information is compliant with civil rights laws and EOs.

## Public Assistance: COVID-19 Vaccine Distribution Civil Rights Evaluation Questions to Consider

This job aid is part of a framework for the performance of a limited civil rights review by Public Assistance (PA) staff in carrying out their oversight responsibilities relating to the COVID-19 vaccine distribution efforts.

The primary responsibility for oversight of nondiscrimination requirements rests with the Office of Equal Rights (OER). However, in meeting the President's requirement for an equitable COVID-19 response plan, PA staff will conduct a limited preliminary review of data submitted by Recipients regarding the implementation of their nondiscrimination responsibilities.

### General Questions:

Has the Recipient submitted progress reports that include details of problems or circumstances expected to result in noncompliance with the approved grant conditions? [44 CFR § 206.204 (f)]

If yes, has a copy been provided to OER for review of compliance with nondiscrimination standards?

Has the Recipient submitted timely, complete, and accurate reports that permit review and ascertainment of whether the Recipient has complied with the regulations prohibiting discrimination in federally assisted programs? [44 CFR § 7.10 (b)]

### Nondiscrimination in disaster assistance

Has the Recipient provided written assurance of its intent to comply with regulations relating to nondiscrimination? [44 CFR § 206.11 (c)]

Has the Recipient demonstrated that all personnel carrying out Federal major disaster or emergency assistance functions, including the distribution of supplies, the processing of the applications, and other relief and assistance activities, have performed their work in an equitable and impartial manner, without discrimination on the grounds of race, color, religion, nationality, sex, age, disability, English proficiency, or economic status.? [44 CFR § 206.11 (b)]

### Nondiscrimination in Federally-Assisted Programs



# Appendix B: OER Review Checklist

Has the Recipient submitted documentation demonstrating the steps taken to ensure that individuals, because of race, color, or national origin, have not been:

- Denied any service or other benefit provided under the COVID-19 vaccination program? [44 CFR § 7.5 (a)(1)]
- Provided service or other benefit that is different, or is provided in a different manner, from that provided to others under the COVID-19 vaccination program? [44 CFR § 7.5 (a)(2)]
- Subjected to segregation or separate treatment under the COVID-19 vaccination program? [44 CFR § 7.5 (a)(3)]
- Restricted in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any service or other benefit under the COVID-19 vaccination program? [44 CFR § 7.5 (a)(4)]
- Treated differently from others in determining whether the individual satisfied any admission, enrollment, eligibility, or other requirement or condition which individuals must meet in order to be provided a service or benefit under the COVID-19 vaccination program? [44 CFR § 7.5 (a)(5)]
- Denied an opportunity to participate in the program through the provision of services or otherwise afford them an opportunity to do so that is different from that afforded to others under the COVID-19 vaccination program? [44 CFR § 7.5 (a)(6)]

Has the Recipient submitted documentation demonstrating that it has not directly or through contractual or other arrangements, utilized criteria or methods of administration which have the effect of subjecting individuals to discrimination because of their race, color, or national origin, or have the effect of defeating or substantially impairing accomplishment of the objectives of the COVID-19 vaccination program as respect to individuals of a particular race, color, or national origin? [44 CFR § 7.5 (b)]

Has the Recipient submitted documentation demonstrating the steps taken to ensure that individuals, because of age, have not been excluded from, denied the benefits of, limited opportunities to participate in, or otherwise subjected to discrimination in the COVID-19 vaccination distribution program? [44 CFR § 7.920 (b)(1)-(2)]

Has the Recipient articulated an exemption to the rules against age discrimination:

- Normal operation or statutory objective of any program or activity [44 CFR § 7.921]
- Reasonable factors other than age [44 CFR § 7.922]

# Appendix B: OER Review Checklist

Has the Recipient demonstrated full compliance with 44 CFR part 7, Nondiscrimination in Federally-Assisted Programs? [44 CFR § 206.11 (a)]

OER Assessment Tool:

	<b>Criterion</b>	<b>Y</b>	<b>N</b>
<b>1</b>	Submission of written assurance against discrimination.		
<b>2</b>	The Recipient has employed information technology equipment to register and track individuals based on their protected characteristics (race, color, religion, nationality, sex, age, disability, English proficiency, or economic status).		
<b>3</b>	The Recipient has collected data to identify the highest-risk communities and underserved populations by established measures per its funding agreement and related policies and regulations.		
<b>4</b>	The Recipient has collected, reviewed, and analyzed community demographic data to determine vaccination site location, physical accessibility requirements of static and mobile sites, and communication needs of the communities served.		
<b>5</b>	The Recipient has collected, reviewed, and analyzed community demographic data to determine the transportation needs in the establishment and operation of the selected vaccination sites.		
<b>6</b>	The Recipient has implemented a public information program that includes translation and interpretation services.		
<b>7</b>	The Recipient has engaged with community-based and civil rights organizations to identify the needs, impediments, and potential remedies to ameliorate the identified barriers to equitable access to the vaccination distribution program.		
<b>8</b>	The Recipient has a reasonable accommodation policy and procedure.		
<b>9</b>	The Recipient has a civil rights complaint procedure or provides information to the public about filing a civil rights complaint with FEMA.		
<b>10</b>	The Recipient has been the subject of a COVID-19 vaccinations program-related complaint or media report, or other information relating to claims of inequitable distribution of the program.		
<b>11</b>	Additional Comments:		

# Request for Information

Applicant Name:

FEMA PA Code:

Reference: Request for Information  
Equitable Vaccine Administration  
FEMA – – DR -

Dear

The Federal Emergency Management Agency (FEMA) has not received 's

Equitable vaccine administration information  
All required vaccine administration information, specifically:

This information is required to determine the eligibility of 's  
vaccination-related work and costs claimed in accordance with the Coronavirus  
(COVID-19) Pandemic: Medical Care Eligible for Public Assistance (Interim) (Version 2).  
Insufficient documentation will cause FEMA to deny the request.

Please respond to the request by uploading the missing information to the documentation  
section of the Applicant Profile in Grants Portal within seven (7) calendar days of receipt of  
this request. If FEMA does not receive a response to this request within this timeframe,  
FEMA will issue a written eligibility determination based on the information received.

If you have any questions regarding this request, please contact at  
or .

Sincerely,

FEMA Region

cc:

Equitable COVID-19 Response and Recovery FEMA Job Aid  
April 9, 2021  
C1

# Eligibility Determination Memorandum

Applicant Type <input type="checkbox"/> State Agency <input type="checkbox"/> Local Government <input type="checkbox"/> Tribe	
<b>Grants Manager:</b> Only fill out this section if the project is in Grants Manager.	<b>EMMIE:</b> Only fill out this section if the project worksheet is in EMMIE.
Project No(s).	EMMIE Project Worksheet No(s).
Version No.	Version No.
Damage Inventory No.	EMMIE Project Cost \$ N/A
	Total Amount Obligated \$ N/A
Project Title:	
Project Size <input type="checkbox"/> Large <input type="checkbox"/> Small (Potentially subject to Net Small Project Overrun appeal)	Category of Work B – Emergency Protective Measures

**Issue(s):**

Amount at Issue \$	Eligibility Issue Type	<input checked="" type="checkbox"/> Work Eligibility
Amount Denied \$		
Issue Keyword(s)	Project Documentation	

**Project Description:**

The coronavirus (COVID-19) pandemic resulted in a major disaster declaration (DR on \_\_\_\_\_ for the State of \_\_\_\_\_, with the incident period of January 20, 2020 and continuing. As a result of the COVID-19 pandemic, \_\_\_\_\_ (Applicant) requested funding under the Federal Emergency Management Agency’s (FEMA) Public Assistance (PA) program for work and costs related to COVID-19 vaccine administration between \_\_\_\_\_ for a total cost of \$ \_\_\_\_\_

# Eligibility Determination Memorandum

## Issue:

Did the Applicant provide equity documentation required to support its request for funding vaccination work and the associated activities?<sup>8</sup>

## Applicable Statutes, Regulations, and Policies in Effect as of the Declaration of the Emergency or Disaster:

- The Robert T. Stafford Disaster Relief and Emergency Assistance Act, *as amended* (Stafford Act), 42 U.S.C. § 5121 *et seq.* (2019):
  - Stafford Act § 403(a)(3)
  - Stafford Act § 308
- Title 44 of the Code of Federal Regulations (C.F.R.) (2019):
  - 44 C.F.R. § 206.11
  - 44 C.F.R. § 206.225(a)
- FEMA Policy:
  - *Public Assistance Program and Policy Guide* FEMA Policy (FP) 104-009-2 (PAPPG) (Apr. 2018)
  - *Coronavirus (COVID-19) Pandemic: Medical Care Eligible for Public Assistance (Interim) (Version 2)* (Medical Care Policy) FP 104-21-0004 (March 15, 2021)

## Analysis:

FEMA may provide PA for work and costs related to eligible emergency protective measures, necessary to eliminate or lessen immediate threats to public health or safety.<sup>9</sup> FEMA is required to ensure that funds are expended in accordance with federal law and public policy requirements, including public policy prohibiting discrimination and protecting the public welfare.<sup>10</sup>

As a condition of receiving PA assistance, section 308 of the Stafford Act requires government bodies and other organizations to comply with regulations relating to nondiscrimination. Implementing this authority, 44 C.F.R. §206.11(c) requires government bodies and other organizations to provide written assurance of their intent to comply with regulations relating to nondiscrimination, which state that all personnel carrying out Federal major disaster or emergency assistance functions shall perform their work in an equitable

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<sup>8</sup> 2 C.F.R. §§ 200.300 *Coronavirus (COVID-19) Pandemic: Medical Care Eligible for Public Assistance (Interim) (Version 2)* (Medical Care Policy).

<sup>9</sup> The Robert T. Stafford Disaster Relief and Emergency Assistance Act, *as amended* (Stafford Act), § 403(a)(3)(I); 42 U.S.C. § 5170b(a)(3)(I) (2019); 44 C.F.R. §206.225(a).

<sup>10</sup> 2 C.F.R. §200.300(a).

# Eligibility Determination Memorandum

and impartial manner, without discrimination on the grounds of race, color, religion, nationality, sex, age, or economic status. The Medical Care Policy specifies equity information that must be submitted to FEMA to support the eligibility of funding for vaccination work and associated activities.<sup>11</sup> If the Applicant does not provide sufficient documentation to support its claim as eligible, FEMA cannot provide PA funding for the work.<sup>12</sup> The burden to support its claim rests with the Applicant.<sup>13</sup>

Here, the Applicant is requesting funding for vaccination work and associated activities. However, the Applicant has not provided required documentation to demonstrate that the vaccination work and associated activities were conducted in an equitable manner in accordance with Stafford Act § 308, 44 C.F.R. § 206.11, and the Medical Care Policy. Therefore, the Applicant’s request for reimbursement of \$ \_\_\_\_\_ is denied.

**Eligibility Determination:**      **Partially Approved**      **Denied**

The Applicant’s request for PA funding for vaccination-related work is not eligible because the Applicant failed to submit the equity documentation required to support its request for funding vaccination work and the associated activities.

**Notice of Right to Appeal:**

The Applicant may appeal this determination to the Regional Administrator, pursuant to Title 44 of the Code of Federal Regulations § 206.206, Appeals. If the Applicant elects to file an appeal, the appeal must:

- 1. Contain documented justification supporting the applicant’s position;
- 2. Specify the monetary figure in dispute; and
- 3. Cite the provisions in federal law, regulation, and/or policy with which the Applicant believes the initial action was inconsistent.

The appeal must be submitted to the Recipient, \_\_\_\_\_, by the Applicant within 60 days of its receipt of this determination. The Applicant should also include a current email address to receive electronic correspondence. The Recipient’s transmittal of that appeal, with recommendation, is required to be submitted to FEMA within 60 days of the receipt of the Applicant’s letter. If you have any questions, please contact \_\_\_\_\_ with \_\_\_\_\_, at \_\_\_\_\_

<sup>11</sup> Coronavirus (Covid-19) Pandemic: Medical Care Eligible for Public Assistance (Interim) (Version 2) FEMA Policy #104-21-0004, at 9 (March 15, 2021).

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

# Eligibility Determination Memorandum

Preparer:

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Office of Chief Counsel Reviewer:

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

**Approval:**

PA Management:

Signature: \_\_\_\_\_

Date: \_\_\_\_\_