



FEMA

Hazard Mitigation Assistance Grant Programs Information
Bulletin No. 01-2022-HMA
April 8, 2022

MEMORANDUM FOR: Hazard Mitigation Assistance Grant Program
Recipients and Subrecipients

FROM: Angela Gladwell *Angela R Gladwell*
Director
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SUBJECT: Hazard Mitigation Assistance Grants Termination Clarification

I. Purpose

This Information Bulletin (01-2021-HMA) clarifies how Hazard Mitigation Assistance (HMA) awards may be terminated and clarifies which parties' consent is required when terminating an award between FEMA and a recipient. Specifically, it amends the language in the Hazard Mitigation Assistance (HMA) Guidance, dated February 27, 2015, which states that consent by "all parties" is required for grant termination. It explains that "all parties" refers to two parties when FEMA and the recipient agree to terminate the grant and does not include the subrecipient.

FEMA issues this bulletin to better ensure that grant termination under HMA programs that are implemented under the HMA Guidance are consistent with the requirements in 2 C.F.R. § 200.340(a)(3).

II. Applicability

This clarification is effective as of the date of this Information Bulletin for all open and future grant awards for all HMA programs. The clarification applies to Flood Mitigation Assistance (FMA), Pre-Disaster Mitigation (PDM), Hazard Mitigation Grant Program (HMGP), and Hazard Mitigation Grant Program Post Fire (HMGP Post Fire).¹ Termination of Building Resilient Infrastructure and Communities (BRIC) awards is addressed in the BRIC Notice of Funding Opportunity (NOFOs) applicable to the year under which the recipient and subrecipient applied.²

III. Background

There are five ways an award may be terminated under 2 C.F.R. § 200.340(a). A federal award may be terminated, in whole or in part: 1) By the federal awarding agency (FEMA) or pass-through entity (recipient) if the recipient or subrecipient, respectively, fail to comply with the

¹ These programs are covered in the 2015 Hazard Mitigation Assistance Guidance.

² The NOFO can be located on FEMA's BRIC website at <https://www.fema.gov/grants/mitigation/building-resilient-infrastructure-communities>.

terms and conditions of the award; 2) By FEMA or the recipient, to the greatest extent authorized by law, if an award no longer effectuates the program goals or agency priorities; 3) By FEMA or the recipient with the consent of the non-federal entity, in which case the two parties must agree upon the termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated; 4) By the non-federal entity³ upon sending to the federal awarding agency (FEMA in the case of a recipient) or pass-through entity written notification that specifies the reasons for such termination, the effective date, and, in the case of partial termination, the portion to be terminated. However, if FEMA or the recipient determines in the case of partial termination that the reduced or modified portion of the award or subaward will not accomplish the purposes for which the award was made, FEMA or recipient may terminate the award in its entirety; or (5) By FEMA or the recipient pursuant to termination provisions included in the federal award.

This policy clarification relates to the third way in which a grant may be terminated under 2 C.F.R. § 200.340(a)(3). According to 2 C.F.R. § 200.340(a)(3), two parties, either (1) FEMA, with the consent of the recipient (acting as the non-federal entity), or (2) the recipient with the consent of the subrecipient (acting as the non-federal entity), may terminate a grant award or subaward, respectively.

The HMA Guidance dated February 27, 2015, Part VI. Section C.1 Termination states:

The Federal Award may be terminated in whole or in part by FEMA or the pass-through entity [recipient] if the non-Federal entity [recipient or subrecipient] fails to comply with the terms and conditions of the award, for cause, with consent of the non-Federal entity when all parties agree with the termination conditions, or by the non-Federal entity upon sending FEMA or the pass-through entity [recipient] written notification of the termination including the reason for the termination.

The issue pertains to the HMA Guidance language regarding “all parties.” The language in 2 C.F.R. § 200.340(a)(3) addressing consent for grant termination is more precise, requiring the consent of two parties. The language specifically identifies that the two “parties” are the federal awarding agency, i.e., FEMA, with the consent of the recipient, acting as the pass-through entity and non-federal entity in HMA Grants, or the pass-through entity with the consent of the subrecipient acting as the non-federal entity. FEMA has reviewed the language in both 2 C.F.R. § 200.340(a)(3) and the language in the HMA Guidance and determined that the regulatory language supersedes any other FEMA grant guidance or policy.

As such, in accordance with 2 C.F.R. § 200.340(a)(3), either (a) an award can be terminated by FEMA, with the consent of the recipient as the non-federal entity; or (b) a subaward can be terminated by the recipient as the pass-through entity, with the consent of the subrecipient as the non-federal entity. In each instance, the two parties must agree with the termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated. Only the consent of the two relevant parties is required for the termination.

³ FEMA only terminates an award based on the request from a recipient; a subrecipient must route the request through the recipient.

IV. Clarification

The phrase “all parties” referenced in the HMA Guidance should be interpreted consistent with the phrase “two parties” referenced in 2 C.F.R. § 200.340(a)(3). This means that the subrecipient’s consent is not required when FEMA and the recipient acting as the pass-through entity agree to terminate a prime grant award, as the subordinate grant relationship(s) with the recipient (which is acting as the pass-through entity) and subrecipient(s) exists independent of the FEMA-recipient relationship.

The HMA Guidance language will be updated in the next release of the guidance document.

V. Questions

Any questions regarding this Information Bulletin may be directed to the Policy, Tools and Training Branch at the following email address: fema-hma-grants-policy@fema.dhs.gov.

Attachment(s): N/A

cc: N/A