



Implementation of the Hazard Eligibility and Local Projects Act for Hazard Mitigation Assistance Programs

FEMA Policy FP-206-24-004

BACKGROUND

The Hazard Eligibility and Local Projects (HELP) Act ([Pub. L. 117-332](#)) became law on Jan. 5, 2023, and created an exception to the Hazard Mitigation Assistance (HMA) eligibility requirement included in [44 Code of Federal Regulations \(CFR\) §§ 77.6\(c\), 206.434\(d\)](#) and the HMA Program and Policy Guide (HMA Guide).

PURPOSE

This policy sets forth the HELP Act implementation guidelines for the following HMA programs: Building Resilient Infrastructure and Communities (BRIC), Flood Mitigation Assistance (FMA), Hazard Mitigation Grant Program (HMGP) and the HMGP Post Fire Programs, as well as Congressionally approved Pre-Disaster Mitigation (Congressionally approved PDM).

PRINCIPLES

By implementing the HELP Act, FEMA will:

- A. Provide financial assistance under BRIC, FMA, HMGP and HMGP Post Fire programs, as well as Congressionally approved PDM, for acquisition and demolition projects in which any planning or construction activity has already begun, and all eligibility requirements have been met, instituting an exception to [44 Code of Federal Regulations \(CFR\) §§ 77.6\(c\), 206.434\(d\)](#).
- B. Expedite the implementation of certain types of acquisition and demolition projects following Presidentially-declared disasters while awaiting FEMA's full approval, including the successful completion of all Environmental and Historic Preservation (EHP) considerations and requirements needed for successful reimbursement.

REQUIREMENTS

A. GENERAL ELIGIBILITY

Policy Outcome: Provide hazard mitigation assistance to eligible applicants and subapplicants for acquisition and demolition projects if acquisition and demolition was initiated prior to FEMA's full approval.



Applicant and Subapplicant Responsibilities: An applicant seeking assistance for acquisition and demolition projects under BRIC, FMA, HMGP and HMGP Post Fire, as well as Congressionally approved PDM, in which implementation has already begun, may be eligible to receive assistance under the HELP Act. HELP Act subapplications submitted to FEMA must be separate from other acquisition and demolition subapplications that do not utilize the HELP Act. Additionally, subapplications submitted under the HELP Act must meet the following criteria:

1. The applicant and subapplicant must:
 - a. Comply with this policy; and
 - b. Comply with all other eligibility requirements¹ of the hazard mitigation assistance programs for acquisition and demolition projects as noted in the HMA Guide and BRIC, FMA and Congressionally approved PDM Notices of Funding Opportunity, including extinguishing all incompatible encumbrances; and
 - c. Comply with all other Federal requirements for the acquisition and demolition project; and
 - d. Initiate project implementation (planning or construction activity) between January 5, 2023, and January 5, 2026.

FEMA encourages applicants to establish procedures for meeting the federal EHP requirements prior to applying to ensure eligibility for HMA funding. FEMA further encourages applicants to consult with FEMA Regional Hazard Mitigation and Environmental staff and applicable State, Tribal, or Territorial officials prior to planning or construction activities. To obtain reimbursement, applicants must provide documentation that determines if the acquisition or demolition project is eligible for reimbursement. This includes the requirements listed in Section C. EHP Compliance Requirements of this policy.

FEMA Responsibilities

1. FEMA will determine if the acquisition and demolition project is eligible for reimbursement. To be eligible, the project must:
 - a. Qualify for a categorical exclusion under the National Environmental Policy Act of 1969 ([42 U.S.C. 4321](#) et seq.) and no extraordinary circumstances are present; and
 - b. Be compliant with applicable floodplain management and protection of wetland regulations and criteria; and
 - c. Not require consultation under any other environmental or historic preservation law or regulation.

B. PROGRAM APPLICABILITY

Outcome: Notwithstanding regulatory and policy requirements for pre-award activities, the HELP Act authorizes assistance for eligible acquisition and demolition projects in which any planning, groundbreaking or demolition activity is initiated under BRIC, FMA, HMGP and HMGP Post Fire programs, as well as Congressionally approved PDM.

¹ [44 CFR 80; Part 12, B.1 Property Acquisition for Open Space of the Hazard Mitigation Assistance Program and Policy Guide](#)



Applicants and subapplicants will implement this policy based on applicable standards as follows:

1. The policy is effective as of the date of publishing.
2. For BRIC, FMA, HMGP, and HMGP Post Fire programs, as well as Congressionally approved PDM, this policy applies to any open application period where project implementation is initiated between Jan. 5, 2023 and Jan. 5, 2026.

C. EHP COMPLIANCE REQUIREMENTS

Outcome: Ensure that applicants and subapplicants implement this policy, and submit subapplications under the HELP Act, in accordance with Environmental and Historic Preservation (EHP) laws, regulations, and executive orders.

1. Prior to reimbursement, FEMA EHP will review to verify that the acquisition and demolition project:
 - a. Qualified for categorical exclusion and no extraordinary circumstances are present.
 - b. Did not require Section 106² consultation with a State Historic Preservation Officer (SHPO) in accordance with the terms of an effective FEMA Section 106 State-specific Programmatic Agreement, consultation with a Tribal Historic Preservation Officer (THPO) in accordance with the terms of an effective FEMA Section 106 Tribal-specific Programmatic Agreement, or where no State- or Tribal-specific Programmatic Agreement is in effect, consultation with a SHPO/THPO in accordance with [36 CFR Part 800](#) implementing Section 106 of the National Historic Preservation Act.
 - c. Had no effect on threatened and endangered species, or critical habitat, and did not require informal or formal consultation under the Endangered Species Act with the United States Fish and Wildlife Service and United States National Marine Fisheries Service.
 - d. Had no adverse effect on essential fish habitat and did not require consultation under the Magnuson-Stevens Fishery Conservation and Management Act with the United States National Marine Fisheries Service.
 - e. Was not located within a Coastal Barrier Resources Unit or Coastal Barrier Resources Unit buffer zone.

² Section 106 of the National Historic Preservation Act requires Federal agencies to take into account the effects of their undertakings on historic properties and afford the Advisory Council on Historic Preservation a reasonable opportunity to comment on such undertakings ([36 CFR Part 800.1\(a\)](#)).



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- f. Did not have adverse impacts on wetlands and/or floodplains in compliance with Executive Orders 11990 and 11988.
 - g. Did not have a direct, indirect, or cumulative disproportionately high and adverse human health and/or environmental effect on low income and/or minority populations under Executive Order 12898.
2. The applicant must have coordinated with the local Floodplain Administrator and obtained any required permits prior to initiating work.
 - a. A copy of the approval/permit or documentation (email, documented phone call, letter, etc.) from the permitting official or relevant code exemption that states that an approval/permit is not required, must be forwarded to the state and FEMA for inclusion in the administrative record.
 3. Acquisition and demolition projects located within a coastal zone regulated under the Coastal Zone Management Act must have coordinated with their state coastal management program and obtained any required permits or the activity must otherwise be covered under an existing agreement between FEMA and the state. Documentation must be forwarded to the state and FEMA for inclusion in the administrative record.
 4. Work within or adjacent to surface water and/or wetlands may require coordination with the U.S. Army Corps of Engineers and/or state and local regulatory agencies. Proof of coordination (email, documented phone call, letter, etc.) and any required permits ensuring compliance with the Clean Water Act, and any applicable state and local laws must be forwarded to the state and FEMA for inclusion in the administrative record.
 5. All solid waste materials must have been managed and transported in accordance with the state's solid and hazardous waste rules. Applicant is responsible for determining the presence of asbestos containing materials (ACM). This may include, but is not limited to, cementitious siding, caulking compound, roof felt and shingles, roofing mastic, pipe insulation, furnaces and related elements, sheet vinyl, floor tiles, floor underlayment, and associated mastics. Applicant is responsible for identification, abatement, and disposal of ACMs in accordance with state and federal requirements. Documentation could include a completed work contract from a licensed contractor and must be forwarded to the state and FEMA for inclusion in the administrative record.

DERRICK C HIEBERT Digitally signed by DERRICK C HIEBERT
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Signatory's Name
Title

Date



ADDITIONAL INFORMATION

A. REVIEW CYCLE

FEMA Policy FP 206-24-004, *Implementation of the Hazard Eligibility and Local Projects Act for Hazard Mitigation Assistance Programs*, will be reviewed, reissued, revised, and/or rescinded within three years of the issue date.

A. AUTHORITIES

Hazard Eligibility and Local Projects Act ([Pub. L. 117-332](#))

Note: Policies do not have the force and effect of law, except as authorized by law or as incorporated into a contract.

B. MONITORING AND EVALUATION

FEMA Hazard Mitigation Assistance will monitor and evaluate the implementation of this policy to ensure that the desired outcomes as detailed in this directive are being achieved. FEMA Hazard Mitigation Assistance staff will also actively obtain feedback on process implementation and achievement of the directive's outcome. Data analysis and stakeholder feedback will be used to inform future revisions of this directive.

FEMA will monitor the following through the application submission process:

1. How many applicants used the authority;
2. How many applicants using the authority successfully obtained a grant;
3. How many applicants were not able to successfully obtain a grant;
4. The reasons applicants were not able to obtain a grant.

FEMA Regions will be responsible for tracking applicant and subapplicant data as specified above and delivering this data to FEMA Headquarters.

C. DEFINITIONS

Outcome: *Clearly define components of the HELP Act as it pertains to hazard mitigation assistance programs.*

1. **Covered Projects:** An eligible acquisition and demolition project under PDM, BRIC, HMGP, HMGP Post Fire or FMA that has begun implementation, including any planning or construction activity (in which ground disturbance has already been initiated or completed) before or after requesting hazard mitigation assistance between Jan. 5, 2023 – Jan. 5, 2026, and that qualifies for a categorical exclusion under the [National Environmental Policy Act of 1969](#).
2. **Project Implementation:** Any groundbreaking or demolition activity (in which ground disturbance has already been initiated or completed) before or after requesting hazard mitigation assistance.



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D. QUESTIONS

Direct questions to fema-hma-grants-policy@fema.dhs.gov.