



Mitigation Assistance: Building Resilient Infrastructure and Communities

FEMA POLICY FP-104-008-05

The contents of this document do not have the force and effect of law and are not meant to bind the public in any way. This document is intended only to provide clarity to the public regarding existing requirements under the law or agency policies.

BACKGROUND

Section 203 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act)¹ authorizes the Federal Emergency Management Agency (FEMA) to provide technical and financial assistance to states, local governments, tribes and territories for pre-disaster hazard mitigation measures that are cost-effective and designed to reduce injuries, loss of life, and damage and destruction of property, including damage to critical services and facilities. In response, FEMA established the Pre-Disaster Mitigation (PDM) grant program. FEMA funded PDM using funds received through the annual appropriations process.

The Disaster Recovery Reform Act of 2018 (DRRA)² amended Section 203 of the Stafford Act. Through DRRA Section 1234, National Public Infrastructure Pre-Disaster Hazard Mitigation, FEMA will implement the amended authority in Section 203 by discontinuing the PDM grant program³ and establishing the Building Resilient Infrastructure and Communities (BRIC) grant program via this policy, associated program implementation materials, and notices of funding opportunity (NOFOs). FEMA will fund BRIC from a six-percent set-aside of estimated disaster expenses for each major disaster, as authorized by Section 203(i).

PURPOSE

The purpose of this policy is to establish the framework and requirements for BRIC while allowing flexibility to promote continuous program improvement through priorities and criteria set forth in the annual Notice of Funding Opportunity (NOFO). The BRIC program is designed to promote a national culture of preparedness and public safety through encouraging investments to protect the nation's communities and infrastructure and through strengthening national mitigation capabilities to foster resilience. The BRIC program seeks to fund effective and innovative projects that will

¹ Section 203, added to Pub. L. 93-288 by Pub. L. 106-390, 114 Stat. 1553 (Oct. 30, 2000).

² Section 1234, Pub. L. 115-254, 132 Stat. 3438 (Oct. 5, 2018).

³ Existing PDM grants will continue to be governed until they are closed out by the requirements set forth in the applicable version of FEMA's *Hazard Mitigation Assistance Guidance (HMA Guidance)*. The current version of the *HMA Guidance* can be found at [Hazard Mitigation Assistance Guidance | FEMA.gov](https://www.fema.gov/hazard-mitigation-assistance-guidance).



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reduce risk and increase resilience and serve as a catalyst to encourage the whole community to invest in and adopt policies related to mitigation.

PRINCIPLES

1. Support state and local governments, tribes, and territories through capability- and capacity-building to enable them to identify mitigation actions and implement projects that reduce risks posed by natural hazards.
2. Encourage and enable innovation while allowing flexibility, consistency, and effectiveness.
3. Promote partnerships and enable high-impact investments to reduce risk from natural hazards with a focus on critical services and facilities, public infrastructure, public safety, public health, and communities.
4. Provide a significant opportunity to reduce future losses and minimize impacts on the Disaster Relief Fund (DRF).
5. Promote equity, including by helping members of disadvantaged groups and prioritizing 40 percent of the benefits to disadvantaged communities as referenced in Executive Order (EO) 14008 in line with the Administration's Justice40 Initiative.
6. Support the adoption and enforcement of building codes, standards, and policies that will protect the health, safety, and general welfare of the public, taking into account future conditions, prominently including the effects of climate change, and have long-lasting impacts on community risk reduction, including for critical services and facilities and for future disaster costs.

REQUIREMENTS

A. APPLICANT AND SUBAPPLICANT ELIGIBILITY

Outcome: Entities understand the eligibility requirements for BRIC.

1. States and territories that have had a major disaster declaration under the Stafford Act in the seven years prior to the annual application period start date are eligible to apply to FEMA for federal assistance under BRIC (applicants).⁴
2. Federally-recognized Indian tribal governments may apply directly to FEMA for federal assistance under BRIC as an applicant or through the state as a subapplicant. Indian tribal governments that have had a major disaster declaration under the Stafford Act in the seven years prior to the annual application period start date or are entirely or partially located in a state that had a major disaster declaration in the seven years prior to the annual application period start date are eligible to apply as applicants.⁵

⁴ 42 U.S.C. § 5133(g).

⁵ See 42 U.S.C. § 5123.



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3. Local governments⁶ are eligible to apply to states and territories⁷ for federal assistance under BRIC (subapplicants). Individuals, businesses, and non-profit organizations are not eligible to apply for BRIC funds; however, an eligible applicant or subapplicant may apply for funding on behalf of individuals, businesses, and non-profit organizations.
4. Applicants are required to have a FEMA-approved State or Tribal Hazard Mitigation Plan in accordance with Title 44 of the Code of Federal Regulations (CFR) Part 201 by the application deadline and at the time of obligation of the award.⁸
5. Subapplicants are required to have a FEMA-approved Local or Tribal Hazard Mitigation Plan in accordance with 44 C.F.R. Part 201 by the application deadline and at the time of obligation of grant funds for mitigation projects.⁹

B. FUNDING

Outcome: The BRIC program will distribute funds annually and apply a federal/non-federal cost share.

1. Six-Percent Set-Aside – Not later than 180 days after each major disaster is declared under the Stafford Act and subject to funds availability, FEMA will calculate the estimated aggregate amount of grants to be made under Sections 403, 406, 407, 408, 410, 416, and 428 of the Stafford Act for the major disaster and may set aside six percent of that amount from the DRF for deposit into the National Public Infrastructure Pre-Disaster Mitigation Fund to fund BRIC. The amount set aside shall not reduce the amounts otherwise made available under the referenced sections.
2. Available Funding Amount Determination – On an annual basis, FEMA will assess the amount of funding set aside for BRIC and determine what portion of that amount will be available during the following application period for the BRIC program. FEMA will announce its determination in the annual NOFO for the BRIC program.
3. Available Funding Allocations – In accordance with Section B of this policy, FEMA may allocate the available funding amount as follows:
 - a. State and Territory Allocation – Allocation to each eligible state and territory applicant for mitigation capability- and capacity-building activities and mitigation projects.
 - b. Tribal Set-Aside – Set-aside for an allocation to eligible Indian tribal government applicants for mitigation capability- and capacity-building activities and mitigation projects.

⁶ 42 U.S.C. § 5122(8) (includes certain tribal governments in definition of local government).

⁷ 42 U.S.C. § 5133(b).

⁸ 42 U.S.C. § 5165; 44 C.F.R. § 201.4(a); 44 C.F.R. § 201.7(a).

⁹ 42 U.S.C. § 5165; 44 C.F.R. § 201.6(a); 44 C.F.R. § 201.7(a).



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- c. Project Competition – Allocation of the remainder of the funding for a competition among eligible applicants for mitigation projects.
 - d. FEMA may identify additional criteria in the annual NOFO to allocate available funding.
4. Cost Share – All financial assistance provided under BRIC will be subject to the following non-federal cost-sharing provisions:¹⁰
- a. Generally, FEMA may provide up to 75% of the cost of eligible mitigation activities under BRIC.¹¹
 - b. FEMA will provide 100% Federal funding for management costs.
 - c. The non-federal cost share may consist of cash, donated or third-party in-kind services, materials, or any combination thereof. Applicants cannot apply other federal award funds toward the BRIC non-federal cost share unless the other federal statutory authority allows the funds to be used to meet cost-share requirements.¹² FEMA encourages innovative use of public and private-sector partnerships to meet the non-federal cost share.
 - d. FEMA may provide up to 90% of the cost of eligible mitigation activities for small impoverished communities,¹³ also known as economically disadvantaged rural communities. A small impoverished community must fulfill both of the following conditions:
 - i. It must be a community of 3,000 or fewer individuals identified by the applicant.¹⁴
 - ii. It must be economically disadvantaged,¹⁵ with residents having an average per capita annual income not exceeding 80 percent of the national per capita income, based on best available data.¹⁶

C. USES OF ASSISTANCE

Outcome: Eligible applicants and subapplicants understand the eligible types of assistance under BRIC to effectively implement the BRIC program and projects.

1. Technical Assistance – FEMA may provide non-financial technical assistance to promote the BRIC program, identify potential projects, develop and review applications and mitigation plans, and provide training on grants management.
2. Capability- and Capacity-Building Activities – FEMA may provide financial

¹⁰ 42 U.S.C. § 5133(h); see also the *Hazard Mitigation Assistance Cost Share Guide* at <https://www.fema.gov/media-library/assets/documents/117020> for more information.

¹¹ 42 U.S.C. § 5133(h)(1); see also the *Hazard Mitigation Assistance Cost Share Guide* at <https://www.fema.gov/media-library/assets/documents/117020> for more information.

¹² See GAO Redbook, GAO-06-382SP, Vol. 2 (3rd ed. 2006), pp. 10-93, 10-97, at <https://www.gao.gov/products/gao-06-382sp>.

¹³ 42 U.S.C. § 5133(h)(2).

¹⁴ 42 U.S.C. § 5133(a).

¹⁵ *Id.*

¹⁶ 44 C.F.R. § 201.2.



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assistance in the allocation to applicants to expand or improve the administration of mitigation assistance; mitigate risk by creating and supporting partnerships; develop or update mitigation priorities and plans; pursue project-scoping activities; establish, adopt, and enforce building codes and standards consistent with applicable law; and reduce vulnerability by identifying and implementing other hazard-mitigation activities, enhancing public safety, and improving the resilience of communities and critical infrastructure to natural hazards.

3. **Mitigation Projects** – FEMA may provide competitively awarded financial assistance to applicants to implement cost-effective mitigation projects designed to increase resilience and public safety and reduce injuries, loss of life, and damage and destruction of property, including damage to critical services and facilities.
4. **Management Costs** – FEMA may provide financial assistance to reimburse the recipient¹⁷ and subrecipient for eligible and reasonable indirect costs, direct administrative costs, and other administrative expenses associated with a specific mitigation measure or project in an amount up to 15% of the total amount of the grant award, of which not more than 10% of the total award amount may be used by the recipient and 5% by the subrecipient for such costs.

D. ACTIVITY ELIGIBILITY CRITERIA

Outcome: Applicants and subapplicants understand eligibility criteria for activities.

1. **General** – To be eligible for the BRIC program, all activities must fulfill the following conditions:
 - a. They must be in conformance with the following:
 - i. All applicable federal, state, tribal and local environmental and historic preservation laws, regulations, executive orders, and agency policies including 44 C.F.R. Part 9, DHS Directive 023-01 Rev 01 and Instruction 023-01-001-01, Rev 01, FEMA Directive 108-1 and Instruction 108-1-1.¹⁸
 - ii. All applicable federal, state, tribal, territorial, and local floodplain and land use laws and regulations including 44 C.F.R. 60.3.¹⁹
 - iii. Any FEMA directive or policy implementing the Federal Flood Risk Management Standard (FFRMS).²⁰

¹⁷ 2 C.F.R. § 200.1

¹⁸ 44 C.F.R. §§ 9.1 - 9.3. See also <https://www.dhs.gov/publication/directive-023-01-rev-01-and-instruction-manual-023-01-001-01-rev-01-and-catex> (implementing the National Environmental Policy Act) and <https://www.fema.gov/media-collection/ehp-directive-instruction-fema-directive-108-1-instruction-108-1-1> (outlining FEMA's approach to Environmental Planning and Historic Preservation compliance).

¹⁹ 42 U.S.C. § 4102(c); 44 C.F.R. § 60.3.

²⁰ On August 27, 2021, FEMA released FP-206-21-0003 Partial Implementation of the Federal Flood Risk Management Standard for Hazard Mitigation Assistance Programs (Interim), available at https://www.fema.gov/sites/default/files/documents/fema_policy-fp-206-21-0003-partial-implementation-ffrms-hma-programs-interim.pdf.



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- b. They must not duplicate activities another federal agency or program has more specific authority to conduct.²¹
 - c. They must be in conformance with 2 C.F.R. Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*, as applicable.²²
 - d. They must be in conformance with any other criteria established by FEMA that is specific to the proposed activity.
2. Capability- and Capacity-Building Activities – In addition to the general minimum criteria set forth in section D.1, all capability- and capacity-building activities should result in a resource, strategy, or tangible mitigation product that will reduce or eliminate risk and damage from future natural hazards, increase resilience and public safety, or promote a culture of preparedness. Already initiated or completed capability- and capacity-building activities are not eligible for funding.
 3. Mitigation Projects – In addition to the general minimum criteria set forth in section D.1, each mitigation project must fulfill the following conditions:
 - a. It must align with the State Mitigation Plan and Local or Tribal Hazard Mitigation Plan approved under 44 C.F.R. Part 201, or for Indian tribal governments acting as applicants, align with the Tribal Hazard Mitigation Plan approved under 44 C.F.R. § 201.7.²³
 - b. It must, at a minimum, be in conformance with the latest published editions (meaning either of the two most recently published editions) of relevant consensus-based codes, specifications, and standards that incorporate the latest hazard-resistant designs.²⁴
 - c. It must be technically feasible and effective.²⁵
 - d. It must solve a problem independently or constitute a functional portion of a long-term solution with assurance the project as a whole will be completed by showing a reasonable plan and available funding for completion.²⁶
 - e. Projects for which ground disturbance has already been initiated or completed are not eligible for funding.
 - f. It must be cost-effective and designed to increase resilience and reduce risk of injuries, loss of life, and damage and destruction of property, including critical

²¹ See GAO Redbook, GAO-06-382SP, Vol. II (3rd ed. 2006), pp. 6-162-163, 6-235, 6-238 at <https://www.gao.gov/assets/210/202819.pdf>; GAO-17-797SP (4th ed., Chapter 3, 2017 rev.), p. 3-13 at <https://www.gao.gov/assets/690/687162.pdf> (A federal agency cannot augment its purpose with activities it is not authorized to perform, or have its authority augmented by another federal agency's activities.)

²² 2 C.F.R. § 200.101; 2 C.F.R. Part 3002.

²³ 42 U.S.C. § 5165; 44 C.F.R. §§ 201.4(a), 201.6(a), 201.7(a).

²⁴ 42 U.S.C. § 5133(m).

²⁵ 42 U.S.C. § 5133(b), (g)(3), (4), (6), (8), and (11).

²⁶ 42 U.S.C. § 5133 (f)(1), (g)(6), (g)(12).



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services and facilities.²⁷ This means the project, as documented by the applicant, achieves the following goals:

- i. Addresses a repetitive problem or problem that poses a risk to public health and safety and improved property if left unresolved.
 - ii. Satisfies applicable cost-effectiveness requirements.
 - iii. Contributes, to the extent practicable, to a long-term solution to the problem it is intended to address.
 - iv. Accounts for long-term changes to the areas and entities it protects and has manageable future maintenance and modification requirements.
- g. If the project is located in a Special Flood Hazard Area (SFHA), it must meet all of the following conditions:
- i. The project is in a jurisdiction participating in the National Flood Insurance Program (NFIP) and not on probation, suspension or withdrawn.
 - ii. The property owner obtains and maintains flood insurance for the life of the structure, in an amount at least equal to the project cost or to the maximum limit of coverage made available with respect to the mitigated property, whichever is less. If there is a transfer of ownership of the structure, the requirement of obtaining and maintaining flood insurance for the life of the structure applies to the new owner and any successive owners.
 - iii. The project must comply with any FEMA directive or policy implementing the Federal Flood Risk Management Standard (FFRMS).²⁸

E. GRANT AWARD ADMINISTRATION

Outcome: Applicants, subapplicants, recipients, and subrecipients understand the administrative requirements of BRIC.

1. Upon award, applicants become recipients and subapplicants become subrecipients.
2. Uniform Administrative Requirements – FEMA will administer all BRIC awards in conformance with 2 C.F.R. Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*, as applicable.²⁹
3. Pre-Award Costs – Where such costs are necessary for efficient and timely

²⁷ 42 U.S.C. § 5133(b), (f)(1), (g)(8), (g)(12). These subsections set forth the criteria for establishing the criteria to meet the § 5133 (f)(1) requirement. For similar Hazard Mitigation Assistance requirements, see 44 C.F.R. § 206.434(c)(4), (5), developed for the Hazard Mitigation Grant Program (HMGP); see also 44 C.F.R. § 79.6(d)(4)-(6) developed for Flood Mitigation Assistance (FMA).

²⁸ On August 27, 2021, FEMA released FP-206-21-0003 Partial Implementation of the Federal Flood Risk Management Standard for Hazard Mitigation Assistance Programs (Interim), available at https://www.fema.gov/sites/default/files/documents/fema_policy-fp-206-21-0003-partial-implementation-ffrms-hma-programs-interim.pdf.

²⁹ 2 C.F.R. § 200.101; 2 C.F.R. § 3002.10.



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performance of the scope of work, pre-award costs are incurred by the applicant or subapplicant prior to the start date of the period of performance (POP) directly pursuant to the negotiation and in anticipation of the federal award.

- a. Recipients and subrecipients may be reimbursed for eligible pre-award costs for activities directly related to the development of the application for the mitigation activity.
 - b. Other costs associated with the implementation of the activity incurred prior to the date of the federal award are not eligible for funding.³⁰
4. Application Process – Generally, FEMA intends to follow previously established application processes, including using an electronic grant application system, with specific application requirements and criteria identified in the annual NOFO. If FEMA deviates from previously established application processes, it will outline the details of the changes in other program implementation materials.
 5. Application Review Process – Generally, to be complete, an application must meet applicable requirements as identified in Section D: Activity Eligibility Criteria. Annually, FEMA will provide details, available to the public, on the application review timelines, annual program priorities, scoring criteria, compliance procedures, and processes for application review to further assist applicants in understanding the overall review process.
 6. Award Period of Performance (POP)³¹ – The POP begins with the date of the federal award and ends 36 months from the federal award date. The applicant may submit a request for a longer POP in the application for FEMA to review and approve. FEMA may allow POP extensions, the criteria for which will be detailed in program implementation materials.
 7. Non-Discrimination Compliance – Recipients and subrecipients must ensure the BRIC program is accomplished in an equitable and impartial manner, without discrimination on the grounds of race, color, religion, nationality, sex, age, disability, English proficiency, or economic status.³²
 8. Conflict of Interest³³ – Recipients and pass-through entities must follow their own policies and procedures regarding the elimination or reduction of conflicts of interest when making subawards. Recipients and pass-through entities are also required to follow any applicable state, local, tribal, or territorial statutes or regulations governing conflicts of interest in the making of subawards.
 - a. The recipient or pass-through entity must disclose to FEMA in writing any real or potential conflict of interest, as defined by the federal, state, tribal, territorial, or local statutes or regulations or their own existing policies, that arise during the administration of the federal award within 15 days of learning of the conflict of interest.

³⁰ 2 C.F.R. § 200.458.

³¹ 2 C.F.R. § 200.77; 2 C.F.R. §§ 200.308, 200.309.

³² 44 C.F.R. Part 7.

³³ 2 C.F.R. §§ 200.112, 200.317, 200.318(c).



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- b. Subrecipients must disclose any real or potential conflict of interest to the pass-through entity as required by the recipient's conflict of interest policies or any applicable state, territorial, tribal, or local statutes or regulations.
 - c. This requirement starts when the application period opens, continues during the entire POP, and ends when the last audit is completed.
9. Duplication of Benefits – BRIC funds cannot duplicate funds received by or reasonably available to applicants, subapplicants, recipients, or subrecipients from other sources for the same purpose.
10. Appeals – An eligible applicant, subapplicant, recipient, or subrecipient may appeal according to the following procedures under the BRIC program:³⁴
- a. An eligible applicant, subapplicant, recipient, or subrecipient may request an appeal of either of the following types of actions:
 - i. FEMA's denial of its application or subapplication for mitigation projects for which there is an indication of a substantive technical or procedural error committed by FEMA.
 - ii. A remedy FEMA has taken for noncompliance with federal statutes, regulations, or the terms and conditions of the award that results in suspension or termination of all or part of the award.
 - b. The appeal must be submitted according to the following procedures:
 - i. The applicant or recipient must submit an appeal in writing to FEMA within 60 days after receipt of a notice of the action that is being appealed. The subapplicant or subrecipient must submit its appeal in writing to the applicant or recipient, after which the applicant or recipient must review and evaluate the subapplicant's or subrecipient's appeal before submission to FEMA.
 - ii. For denials of applications or subapplications for mitigation projects, the appeal must identify any substantive technical or procedural error committed by FEMA, and FEMA will consider only the information provided in the application or subapplication as supporting documentation.
 - iii. For remedies FEMA has taken for noncompliance, the appeal must contain documented justification supporting the appellant's position, specify the monetary figure or FEMA action in dispute, and identify the provisions in federal law, regulation, or policy with which the appellant believes the initial action was inconsistent.
 - c. Additional details on the appeals process will be identified in the BRIC program implementation documents.
 - d. The applicant, subapplicant, recipient, or subrecipient will be notified in writing of the disposition of the appeal or the need for additional information.

³⁴ 2 C.F.R. § 200.342.



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2-14-2022

Date



ADDITIONAL INFORMATION

REVIEW CYCLE

This policy will be incorporated in the next revision of the *Hazard Mitigation Assistance Guidance*, planned for release in the spring of 2022.

AUTHORITIES

Section 203 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. § 5133), as amended.

Section 1234 of the Disaster Recovery Reform Act, Pub. L. 115-254, 132 Stat. 3438 (Oct. 5, 2018).

DEFINITIONS

Infrastructure: Critical physical structures, facilities, and systems that provide support to a community, its population, and economy.

Project scoping: Activities designed to develop mitigation strategies and obtain data to prioritize, select, and develop complete applications in a timely manner resulting in either an improvement in the capability to identify appropriate mitigation projects or in the development of an application-ready mitigation project for BRIC or another funding opportunity.

Resilience: Resilience refers to the ability to prepare for anticipated hazards, adapt to changing conditions, and withstand and recover rapidly from disruptions.

MONITORING AND EVALUATION

The effectiveness of this policy will be monitored by FEMA Hazard Mitigation Assistance staff, based on stakeholder feedback.

QUESTIONS

Direct questions to the Hazard Mitigation Assistance Action Office at HMAActionOffice@fema.dhs.gov.