Hazard Mitigation Grant Program Voluntary Property Acquisition Frequently Asked Questions

Introduction

The Hazard Mitigation Grant Program (HMGP) provides grants to State and local governments to implement long-term hazard mitigation measures after a major disaster declaration. Authorized under Section 404 of the Stafford Act and administered by FEMA, HMGP was created to reduce the loss of life and property due to natural disasters. The program enables mitigation measures to be implemented during the immediate recovery from a disaster.

Your community may be considering participating in an HMGP Property Acquisition Project. To avoid the hardship and loss of future damages to your property, you may want to consider participating.

We hope these Frequently Asked Questions (FAQs) will help you better assess your options to recover from the flooding you have endured and to avoid future damages.

Who is eligible to apply?

HMGP funding is only available to eligible applicants after a Presidential disaster declaration. Eligible applicants are:

- State and local governments
- Tribal Nations or other tribal organizations
- Certain non-profit organizations

Individual property owners may not apply directly to the program; however a community may apply on their behalf.

What is an HMGP Property Acquisition Project?

An eligible City or County voluntarily applies for, is awarded, and accepts a federal grant to purchase flood-damaged property in the City or County through a voluntary property acquisition program.

Properties that meet the voluntary acquisition requirements may be purchased by the City or County, typically at their pre-flood fair market value (FMV).

Once property is purchased by the City or County, all structures are removed, the utilities are capped, the ground is leveled, and the property is deed-restricted to green space. The land is usually allowed to return to its natural state, and it must remain green space.

Under the post-disaster Hazard Mitigation Grant Program (HMGP), seventy-five percent (75%) of eligible costs for a project are funded by a Federal Emergency Management Agency (FEMA) grant, generated through and managed by the Iowa Homeland Security and Emergency Management Division (HSEMD). The remaining twenty-five percent (25%) of the eligible costs are provided by non-federal sources. The State of Iowa typically funds ten percent (10%) of the non-federal share, leaving the community to fund the remaining fifteen percent (15%).

Is participation in the program voluntary?

This property acquisition program is because all participants (i.e., the Federal Government, the State Government, the Local Government and the Property Owner) must voluntarily participate in the program. The Federal Government cannot force the State Government to participate and vice versa. Likewise, the State Government cannot force the Local Government to participate. Moreover, the City or County cannot use the community's power of eminent domain to purchase property with federal funds; these property acquisitions must be strictly voluntary. At any point in the process, any party may decide not to participate in the acquisition process.

Will I be forced to sell my home if my community is granted funding for an HMGP acquisition project?

Acquisition projects funded under the HMGP are voluntary, and you are under no obligation to sell your home. Although communities may consider many mitigation options, the State and local officials may determine that property acquisition in a hazard area is the most effective mitigation action. Acquisition projects are based on the principle of fair compensation for property. Property acquisitions present owners with an opportunity to recoup a large part of their investment in property that probably has lost some, if not most of its value due to damage. But, it will not compensate you or your family for your entire emotional and financial loss.

What is required for a community to apply for a HMGP property acquisition project?

As with all FEMA mitigation programs, the voluntary property acquisition programs must be administered in an equitable and impartial manner, without discrimination on the grounds of race, color, religion, nationality, sex, age, economic status, or disability. The program must comply with Section 308 of the Stafford Act and Title VI of the Civil Rights Act of 1964. State and local governments distributing Federal assistance must comply with Title VI, ensuring there are no discriminatory practices. The City or County must consider fairness, equity, and equal access when prioritizing and selecting properties to submit with the grant application.

For property acquisition projects, the primary consideration for communities is the mitigation of properties that are the most vulnerable to flooding. Communities will take into consideration the history of flooding for the property, the benefits (financial and otherwise) that the acquisition of the structure would produce for the community and the property owner, and the changes to the community that the project would bring into being. These and other factors are all carefully considered when a community considers applying for an HMGP property acquisition project grant.

To be eligible for HMGP funding, a City or County must be in compliance with and a participant in good standing with the National Flood Insurance Program, if the community is mapped. A community also must have an approved Multi-Hazard Mitigation Plan, as outlined in 44 CFR Part 201.

Once the community has met the applicant eligibility criteria, minimum eligibility requirements apply to any proposed project. To be eligible for HMGP funding, a project must:

- Conform to the State's Hazard Mitigation Plan and the Local Hazard Mitigation Plan
- Have a beneficial impact upon the designated disaster area, whether or not the project is located in the designated area
- Conform to 44 CFR Part 9, Floodplain Management and Protection of Wetlands, and 44 CFR Part 10, Environmental Considerations
- Independently solve or be a functional part of a solution where there is assurance that the project as a whole will be completed
- Prove to be cost-effective and a substantial reduction of future risk because it:
    - Addresses a problem that is repetitive or poses a significant risk to health and safety
    - Is the most practical, effective, and environmentally sound alternative among a range of alternatives considered
    - Is or contributes to a long-term solution to a problem
    - Considers long-term changes to the areas and entities it protects
    - Costs less than its anticipated benefits

What types of costs are eligible for HMGP funding?

Costs related directly to the implementation and completion of an approved HMGP project generally are allowable and eligible. Examples of typically eligible costs for HMGP property acquisition projects include:

- Pre-flood fair market value of the property
- Demolition and debris removal costs
- Legal, closing, permits and fees

- Direct project management costs
- Replacement housing benefits, moving allowances, and rental assistance (as defined by the Uniform Relocation Assistance Act)

What steps are involved in completing a successful HMGP Property Acquisition Project?

All HMGP Property Acquisition Projects begin with a community's decision to participate in the HMGP program. It is important to know that the community makes this decision, determining for itself what is in its best interests. If requested by a community, State and Federal support is available to the community during the decision-making process.

Once the community has decided to participate in the HMGP program, it must prepare an HMGP application. The application is a complex document, which requires extensive documentation and technical analysis. The application requires highly detailed information and documentation, including:

- Information about specific properties to be acquired
- Maps, latitude and longitude coordinates, and photographs for each property
- Environmental and Historic Preservation compliance information
- Information about previous damages to the structures
- A completed benefit-cost analysis
- A Statement of Voluntary Participation signed by the property owners
- A commitment by the community that the acquired land will be maintained in perpetuity as green space

The community works with the State to develop a complete application for their proposed project. The State formally submits the project application to FEMA for funding consideration and approval.

Once the project application is approved by FEMA, the local community is notified that their project has been approved for funding. Representatives from the community meet with representatives from the State to formalize an agreement for management and administration of the grant. The community accepts the grant and adopts an acquisition administrative plan.

At this point, the community is ready to begin the acquisition process, which includes:

- Property title searches
- Final offers to property owners
- Transfer of property and closing
- Recording of deed restrictions

After a community has acquired a property, all structures on the property are demolished, all utilities are capped or removed, and all debris is removed. The property is restored to its pre-development state and is allowed to return to its natural function as a floodplain. In accordance with Federal regulations, use of the acquired property is restricted to green space. However, there are some types of allowable uses for the property, including:

- A public facility that is open on all sides and is functionally related to a designated open space or recreational use
- A rest room
- Public park
- Nature reserve
- Unimproved parking lots

How will the pre-flood fair market value of my property be determined?

For every property to be acquired, the community will establish and document a value based on fair market value, usually pre-flood. Typically, acquisition projects require the valuation of the property (land and structures as a whole).

The property value must be derived from a methodology that results in a reasonable determination of fair market value. The community will coordinate with the State to determine the methodology to be used, and this methodology will be applied consistently to all properties to be acquired.

There are various methodologies that a community may use to determine pre-event fair market value for properties to be acquired. When practical, communities often choose to base valuation on appraisals. Appraisals must be conducted by an appraiser in accordance with the *Uniform Standards of Professional Appraisal Practice* (USPAP). The appraiser must comply with relevant State laws and requirements, and shall have the appropriate certification, qualifications, and competencies based on the type of property being appraised.

Communities may choose instead to use the tax assessed value of a property, and add an adjustment factor. For example, a community may choose to use 110% of the tax assessed value as the pre-flood fair market value for the property. Using an adjustment factor enables a community to determine a pre-flood fair market value for each property so that the reasonable value of the property is reflected.

Will the community be able to redevelop my property after acquiring it?

Under the Stafford Act, any land purchased with HMGP funds must be restricted in perpetuity to green space, recreational, and wetlands management uses. Most often, a

local government takes responsibility, but even if a State or Federal Agency takes ownership of the land, the deed restrictions still apply.

Will every property owner who wants to participate in the HMGP program be accepted?

The community will consider and determine which properties will be included in the HMGP property acquisition application. Because HMGP funding for the property acquisition grant program is limited, States and local communities must make difficult decisions regarding the most effective use of available grant funds. There are other considerations that a community must work through before the final decision is made. Therefore, some properties may not be included.

What is a Benefit-Cost Analysis (BCA)?

Benefits are future damages that do not occur because a project has been implemented and properties are no longer in harm's way. Because acquisition projects permanently eliminate flood risks for purchased properties, their benefits continue far into the future. The BCA compares the present-day cost of a project to its long-term benefits. A project is cost-effective if the ratio of the project's benefits is equal to or higher than the costs.

Technical assistance is available to communities for support with BCA questions.

What is a non-federal cost share?

All funds awarded under the HMGP are subject to the cost-share requirements established in the Stafford Act and in the FEMA-State Agreement. The percentage of the program funded by FEMA cannot exceed seventy-five percent (75%). The remaining twenty-five percent (25%) must come from other, non-federal sources. The State of Iowa typically funds ten percent (10%) of the non-federal share, leaving the community to fund the remaining fifteen percent (15%).

In general, the following are examples of eligible non-federal cost share:

- Cash
- Third-party donations
- In-kind contributions
- Private Funds

HMGP funds do not lose their federal identity upon disbursement and may not be used as match for another Federally-funded project. Likewise, funds from most other Federal agencies and programs may not be used as a match for HMGP. However, there are exceptions to this funding rule. Examples include:

- Communities may use Community Development Block Grant (CDBG) monies as a match for HMGP property acquisition projects as long as the project is eligible under both programs
- Bureau of Indian Affairs funds may be used as a match for HMGP funds

How is Increased Cost of Compliance (ICC) coverage used as a non-federal cost share?

Increased Cost of Compliance (ICC) coverage benefits under the National Flood Insurance Program (NFIP) may be used as non-federal cost share for HMGP property acquisition projects. ICC coverage provides for the payment of a claim for the cost of a substantially damaged property to comply with a community floodplain management ordinance after a direct physical loss by flooding. ICC claims can only be used for NFIP-approved costs; these can then be applied to the HMGP non-federal cost share. For example, ICC can't be used to pay for property acquisition but should be used to pay for demolition of acquired structures (when available).

What is Duplication of Benefits (DOB)?

HMGP funding is supplemental to other funding sources and must be reduced by amounts reasonably available (even if not sought or received) from other sources to address the same purpose or loss. Insurance payments, FEMA housing needs assistance, property-related legal claims and/or funds from any other sources that are available for the purpose of making repairs to or replacing a structure, or other compensation for the value of the real property are considered duplicated amounts. In this case, the eligible project costs are reduced by the duplicative amount. This has the effect of reducing both the Federal and non-Federal shares of the project and ensures that mitigation grant funds do not duplicate benefits available to owners and tenants from another source for the same purpose.

The State, community, and property owner must take reasonable steps to recover all such amounts. Amounts that are reasonably available to the individual or entity shall be treated as benefits available for the same purpose, even if they did not seek them. Duplications can occur at any time in such cases, and if amounts for these purposes are received subsequent to the property settlement they must be reimbursed to FEMA.

Some DOB examples include the following:

• When a property owner is offered pre-flood fair market value, duplication may occur if homeowners have insurance, loans, repair grants, or other assistance available to them to help address the damage to the structure. The duplication occurs because paying full pre-flood fair market value also compensates the owner for the loss of value that occurs due to damage. The community must make the deductions from the established pre-flood fair market value purchase offer before making a final mitigation offer to the property owner

• Duplication may occur when insurance benefits are available to the property owner under an existing policy, whether they submitted a claim or not

Deductions are not taken, however, for amounts expended on repairs or cleanup that the owner can verify with receipts. Communities may not credit property owners for the property owners' own labor hours for repair work.

What is a Substantial Damage Determination?

A qualified local official may determine a building to be substantially damaged when

> "...damage of any origin is sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred."

Making a determination of substantial damage is one of the most important responsibilities of the local floodplain administrator. The local floodplain administrator (e.g., building department official) must determine whether damage to a building equals or exceeds fifty percent (50%) of its pre-flood market value.

Local floodplain administrators must ensure that market values are reasonably accurate and that the cost estimate reasonably reflects the actual costs to fully repair the damage and make any other improvements to the building.

How may a property owner find out more information about participating in an HMGP Property Acquisition Project?

Please contact your local City or County government officials to express your interest in participating in an HMGP property acquisition project and obtain their instructions. Thank you!