




FEMA

MEMORANDUM FOR: Dominic Mancini
Deputy Administrator
Office of Information and Regulatory Affairs
Office of Management and Budget

THROUGH: Eric Hysen
Chief Information Officer
Department of Homeland Security

FROM: Alexandra Travis 
Chief Administrative Officer
Mission Support
Federal Emergency Management Agency

SUBJECT: Emergency Approval Request of New Office of Management and Budget (OMB) Collection 1660-0072 – FEMA Mitigation Grant Programs in Support of Expanded Program Activities and New Initiatives in Fiscal Year 2022.

The Federal Emergency Management Agency (FEMA) seeks emergency approval from the Office of Management and Budget (OMB) for the information collection under OMB Control Number: 1660-0072. Emergency approval of the proposed new collection is required to ensure that FEMA is able to receive and process Fiscal Year (FY) 2022 applications and implement FY 2022 Congressionally directed community projects through the Hazard Mitigation Assistance (HMA) Division’s Pre-disaster Mitigation (PDM) grant program; implement the Infrastructure Investment and Jobs Act (IIJA) funded FY 2022 Flood Mitigation Assistance’s (FMA) “Swift Current” Initiative; implement IIJA funded FMA program requirement increases; implement IIJA funded Building Resilient Infrastructure and Communities (BRIC) program requirement increases; implement the BRIC Direct Technical Assistance (DTA) initiative in compliance with IIJA, Executive Order (EO) 13985 and EO 14008 requirements; and implement the Build America, Buy America Act (BABAA) through Hazard Mitigation financial assistance programs.

Mitigation Grant Programs provide mitigation funding to protect life, property, and nationally significant infrastructure from future disaster damages. In accordance with the Paperwork Reduction Act (PRA) and the OMB implementing regulations at 5 C.F.R. § 1320.13, FEMA certifies that: (1) this information is essential to the mission of the agency, (2) this information is

needed prior to the expiration of time periods established under the PRA, (3) FEMA cannot reasonably comply with the normal PRA clearance procedures because of the public harm is reasonably likely to result if normal clearance procedures are followed, and (4) unanticipated events have occurred. FEMA's HMA grant programs provide funding for eligible mitigation measures that reduce disaster losses; reduce vulnerability of communities to disaster impacts; promote individual and community safety; promote community adaption to changing conditions; and strengthen community resilience to withstand and rapidly recover from disasters disruption due to emergencies.

Recent legislation and executive orders have substantially increased funding, impacted mitigation grant program activities and significantly changed information collection requirements for HMA programs in FY 2022. Delay in the implementation of HMA programs in FY 2022 places significant financial, administrative, and technical burdens on state, local, territorial, and tribal (SLTT) governments to maintain ongoing disaster recovery operations, apply for hazard mitigation grants, and implement mitigation projects in preparation for future disaster impacts. Delays in FY 2022 programs risk significant delays and potential cancellation of projects that decrease risk to critical infrastructure, significantly reduce nationwide property damages, mitigate suffering, and save lives. Delay to HMA's program activities also threatens the implementation of projects targeting underserved communities, as defined by Justice40, which was established by EO 14008. Justice40 establishes equity and environmental justice criteria to guide implementation of EO 14008 by directing climate change investments to Justice40 defined underserved communities. Information collections are necessary to establish program eligibility requirements, document major disaster vulnerabilities, monitor project implementation, assess impacts to community risk and resiliency, and provide data to construct program effectiveness metrics.

Mission Legal Justifications

Legislative Justification and Impacts to the FY 2022 Hazard Mitigation Predisaster Mitigation Program (PDM): Section 203 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act), as amended (Pub. L. No. 93-288) (42 U.S.C. § 5133) authorizes FEMA to provide financial and technical assistance to states, tribes, and local governments to assist in the implementation of pre-disaster mitigation measures. The Consolidated Appropriations Act, 2022 (Pub. Law No. 117-103, 136 Stat. 328) appropriates \$153,922,408 in Congressionally Directed Spending (CDS) to FEMA for grants under Section 203 for specified (earmarked) projects, which FEMA is administering under the PDM program. The appropriations act did not specify a time character for these CDS funds, meaning that, by default, these funds are “one-year” funds. Therefore, this appropriation requires the PDM program to obligate this CDS funding for the earmarked hazard mitigation projects within fiscal year 2022. The objective of the FY 2022 and FY 2023 PDM grant program is to fund Congressionally

directed community projects for SLTT government efforts to plan for and implement sustainable cost-effective measures designed to reduce the risk to individuals and property from future natural hazards, while also reducing reliance on Federal funding from future disasters. Priorities include risk reduction of both acute events and chronic stressors, driven by climate change, which are either observed or expected. Information collection authorizations are necessary to collect application data, cost effectiveness data, environmental and historic preservation data, project monitoring data and data that verifies local project conditions and socioeconomic context.

Legislative Justification and Impact to the FY 2022 Flood Mitigation Assistance Program (FMA): Section 1366 of the National Flood Insurance Act, 42 U.S.C. 4104c, as amended under 44 CFR 77 (October 1, 2021) (previously located at 44 CFR Part 79), provides funding for measures taken to reduce or eliminate the long-term risk of flood damage to buildings, manufactured homes, and other structures insured under the National Flood Insurance Program (NFIP). The IJA increased program funding by a factor of five over five years, and the FMA program is using \$60,000,000 of this for the FMA “Swift Current” Initiative in response to Hurricane Ida in 2021. The intent for the “Swift Current” Initiative is to explore how to make flood mitigation assistance available within the disaster recovery timeframe, for repetitively flooded and substantially damaged buildings insured under the NFIP in advance of the annual grant process. The “Swift Current” Initiative requires program information collection activities to align flood mitigation assistance and disaster recovery investments as close to the August 2021 Hurricane Ida impact as possible. The “Swift Current” Initiative is designed to implement flood mitigation assistance within the near-term disaster recovery timeframe. The program objective targets repetitively flooded, and substantially damaged buildings insured under the NFIP to fund projects in advance of the normal annual FMA grant process. An emergency approval of this information collection is required to implement an application cycle that ends August 1, 2022. Funds will be made available to Louisiana, Mississippi, New Jersey, and Pennsylvania for Individual Flood Mitigation “Swift Current” projects. The IJA-funded “Swift Current” program prioritizes assistance that benefits disadvantaged communities and is designed to comply with the Justice40 goals under EO 14008. To meet these goals, FEMA is requesting that within 30 days of the application start date, each state provide FEMA with a written summary of actions (e.g., state-specific criteria or initiatives) to prioritize equitable selection of submitted sub-applications under the state allocation and ensure maximization of the number of NFIP-insured properties funded under this opportunity.

Legislative Impact to the FY 2022 Building Resilient Infrastructure and Communities (BRIC) Program: Section 203 of the Stafford Act authorizes the Building Resilient Infrastructure and Communities (BRIC) Program. The IJA authorized substantial increases in funding for the BRIC grant program and necessitates a corresponding increase in information collection requirements for FY 2022 program activities. An emergency approval to collection information through the BRIC application is necessary to cover FY 2022 eligibility determinations, program

performance and quarterly reporting, cost effectiveness data, project and program evaluation metrics, environment and historical preservation data, project monitoring and closeout requirements. Under BRIC, the non-financial Direct Technical Assistance (DTA) initiative for FY 2022 is specifically designed to assist economically disadvantaged rural communities, tribal entities, and underserved Justice40 communities. FEMA is committed to prioritizing these communities in FY 2022 application cycles to meet the climate change and equity goals set by EO 14008. DTA delivers crucial hazard mitigation assistance to communities who face resource barriers that prevent access to Hazard Mitigation grants and other federal assistance grants.

Significant Legislative Impacts to All FY 2022 Hazard Mitigation Program Activities: The Foundations for Evidence-Based Policymaking Act of 2018 ("Evidence Act"), (Pub. L. No. 115-435) establishes evaluation using systematic data collection and analysis of programs, policies, and organizations intended to assess their effectiveness and efficiency as an essential program activity. Hazard Mitigation programs are currently revising information collections to simplify data collection, reduce burden, coordinate data collection across programs, develop performance metrics, and meet goals and priorities as stipulated in the Evidence Act. Program implementation of the Evidence Act will necessitate changes to information collections to align with the PRA, OMB's implementing guidance for the Information Quality Act, and the Performance Framework¹ outlined in the Government Performance and Results Act Modernization Act of 2010². Additionally, The Build America, Buy America Act (BABAA), (Pub. L. No. 117-58, §§ 70901-52) establishes requirements, goals and priorities that require additional information requirements for FY 2022. FEMA must ensure that hazard mitigation financial assistance programs comply with BABAA, including incorporating a preference in the terms and conditions of each financial award for infrastructure projects.

Executive Order 14008 and Executive Order 13985 Impacts: EO 14008 and EO 13985 align with IJA goals and priorities to advance equity in Hazard Mitigation programs. Information collections are necessary to document socioeconomic conditions and provide data for program evaluation metrics to meet requirements, goals and priorities established in the IJA and Executive Orders 13985 and 14008. In order to maximize the effectiveness and benefits of these historic investments, agencies are directed to review IJA investments, programs, projects, and activities for applicability under the Justice40 Initiative. The IJA includes existing programs already covered under the Justice40 Initiative, as well as new programs within scope of the Justice40 Initiative. OMB outlined reporting criteria in the M-21-28 Interim Implementation Guidance for the Justice40 Initiative. Agencies shall report information and data on new and existing investments, programs, projects, and activities identified in the IJA and implemented under guidelines established in M-21-28. The IJA provides significant funding to disadvantaged

¹ For example, the Information Quality Act, Privacy Act, and Paperwork Reduction Act of 1995. See Office of Mgmt. & Budget, Exec. Office of the President, OMB M-19-15, Improving Implementation of the Information Quality Act (2019), available at <https://www.whitehouse.gov/wp-content/uploads/2019/04/M-19-15.pdf>.

² <https://www.govinfo.gov/content/pkg/PLAW-111publ352/pdf/PLAW-111publ352.pdf>

communities that have been historically marginalized, underserved, and overburdened by pollution.

Paperwork Reduction Act Timelines

Implementing the CDS earmarks for the PDM community projects; implement EO 13985 and EO14008 mandates; and implement IIJA funding requirements for FMA, FMA's "Swift Current" Initiative, BRIC, and BRIC DTA in FY 2022 while adhering to the standard PRA timeframe would significantly hinder FEMA's ability to process and implement FY 2022 and FY 2023 HMA program activities.

- The Consolidated Appropriations Act, 2022 (Pub. Law No. 117-103) provides a one-year appropriation of \$153,922,408 in Congressionally Directed Spending for FY 2022 for project grants that will be administered under PDM. An emergency information collection authorization is necessary to collect application data, cost effectiveness data, environmental and historic preservation data, project monitoring data and data that verifies local project conditions and socioeconomic context before the application period expires. **The PDM program Notice of Funding Opportunity (NOFO) established an application deadline of July 24, 2022**, to allow a very constricted time frame to process grant applications, resolve congressional and community project eligibility issues, receive and verify information, and award projects before the Congressionally directed spending deadline of September 30, 2022. The Consolidated Appropriations Act was implemented on March 15, 2022, and requires grant award implementation for congressionally directed community projects in FY 2022. The FY 2022 Consolidated Appropriation Act mandates an extremely constricted program schedule to implement the FY 2022 PDM information collection requirements.
- The IIJA "Swift Current" Initiative responds to the 2021 Hurricane Ida by implementing \$60 million in additional flood mitigation assistance in the FY 2022 disaster recovery cycle. The IIJA also mandates a fivefold increase in FY 2022 funding to FMA flood mitigation projects. The IIJA requirements have significantly increased information collection requirements for both FMA flood mitigation assistance and the FMA "Swift Current" initiative. **The application deadline for "Swift Current" applicants is August 1, 2022**. This application deadline is necessary to process grant applications, resolve project eligibility issues, receive and verify information, and award projects in alignment with the ongoing Hurricane Ida disaster recovery cycle. Accelerated implementation of FY 2022 FMA "Swift Current" Initiative project awards will have a significant impact on Hurricane Ida disaster recovery and will significantly mitigate against upcoming near-term disaster impacts. The application period for FMA flood mitigation will open September 30, 2022, and close January 28, 2023.

- The IIJA authorized substantial increases in funding for the BRIC grant program and BRIC DTA. The IIJA increases in funding essentially doubled BRIC program activities and significantly increased FY 2022 information collection requirements. Emergency approvals are needed to meet expanded information collection requirements to determine project eligibility, monitor project compliance and performance and implement FY 2022 BRIC non-financial Direct Technical Assistance (DTA). **The application period for BRIC program and BRIC DTA applications start September 30, 2022, and closes January 27, 2023.**

Public Harm is Reasonably Likely to Result if Normal Clearance Procedures are Followed

Hazard Mitigation investments in SLTT communities are essential to implement in FY 2022 to initiate new initiatives and program activities to maintain an uninterrupted application, funding, grant monitoring, and project close out cycle. The FY 2022 Hazard Mitigation grant cycle impacts disaster preparation, risk reduction, and community capacity to recover from disaster for SLTT stakeholders. Delay in FY 2022 Congressionally mandated PDM projects, FY 2022 FMA “Swift Current” Initiative for Hurricane Ida recovery, FMA flood mitigation projects, BRIC and BRIC DTA pre disaster mitigation projects places significant financial, administrative, and technical burdens on SLTT’s to maintain ongoing disaster recovery operations and prepare for future disaster impacts. Delay in FY 2022 Hazard Mitigation application cycles and project funding implementation increases risk to critical national infrastructure; reduces community capacity to save lives and prevent extensive property damage. While it is not possible to precisely quantify the impacts of delays in mitigation project implementation, The FY 2022 HMA programs and initiatives in this information collection represent billions of dollars of national investment to reduce community risk and collectively prevent hundreds of millions of dollars in annual disaster damage. An interruption of information collection activities like project applications, eligibility verification, project implementation, and project monitoring represent a significant risk to the public who are vulnerable to major disasters.

- The PDM program implements FY 2022 Congressionally directed community projects. These projects are intended to reduce risk to individuals and property from future natural hazards and reduce reliance on federal funding from future disasters. Congress has directed FY 2022 community priorities through legislation to reduce the risk of acute events and chronic stressors, driven by climate change, which are either observed or expected. Delays in PDM information collection authorizations would likely impede community continuity of operations, increase risk to vital community lifelines, and impede community efforts to increase public disaster preparedness and plan for future disasters.
- The BRIC DTA initiative is specifically designed to assist economically disadvantaged rural communities, Tribal entities, and other Justice40 defined underserved communities. Justice40 establishes equity and environmental justice criteria to guide implementation of EO

14008 by directing climate change investments to Justice40 defined underserved communities. BRIC DTA delivers hazard mitigation assistance to communities who face resource barriers that prevent access to Hazard Mitigation grants and other federal assistance grants. Delays in implementation of the BRIC DTA initiative delays investment to increase a community's capacity and capability to conduct mitigation activities and increase the community's resilience to natural hazards. BRIC DTA targeted communities have by definition low community capacity to recover from disaster impacts. Delays to implantation of the BRIC DTA increases risk to underserved communities with low capacity to prevent damages to property, community infrastructure, limit suffering, and save lives in a major disaster.

- Executive Order 14008 and Executive Order 13985 align with the IJA goals and priorities to advance equity in Hazard Mitigation programs under this collection. The IJA requires significant increases in the BRIC pre disaster mitigation program and the FMA flood mitigation programs. BRIC and FMA are directed through Executive Orders 13985 and 14008 and the IJA to target significant funding to disadvantaged communities that have been historically marginalized, underserved, and overburdened by pollution. Delays in FMA and BRIC information collection activities increases potential harm to underserved communities. Underserved communities have low capacity to prevent damages to property and community infrastructure, limit suffering, and save lives in a major disaster.

The Hazard Mitigation programs fund ongoing cycles of grants that require continual information collection activities such as project planning, scoping, application, eligibility verification, budgeting, implementation, project monitoring, financial reporting, auditing and grant close out activities. The expansion of Congressionally directed PDM community projects for FY 2022; the FY 2022 Hurricane Ida FMA "Swift Current" initiative projects; and the IJA induced explosive growth in the FMA and BRIC programs and the BRIC DTA initiative all provide substantial support to the National Preparedness Goal of a "secure and resilient nation with the capabilities required across the whole community to prevent, protect against, mitigate, respond to, and recover from the threats and hazards that pose the greatest risk." Delays in the implementation of these programs poses a significant national risk to community preparedness and disaster resiliency.

Unanticipated Events

In accordance with the PRA and the OMB implementing regulations at 5 C.F.R. § 1320.13: (1) this information is essential to the mission of the agency, (2) this information is needed prior to the expiration of time periods established under the PRA, (3) FEMA cannot reasonably comply with the normal PRA clearance procedures because of the public harm is reasonably likely to result if normal clearance procedures are followed, and (4) unanticipated events have occurred.

Recent legislation has significantly impacted information requirements to implement FY 2022 Hazard Mitigation program activities. The bulleted list below explains the HMA program responses to legislative induced impacts.

- The Consolidated Appropriations Act, 2022 provides a one-year appropriation of \$153,922,408 in Congressionally directed spending for FY 2022 to be implemented through the HMA PDM. FEMA had not managed earmarked or CDS funding in several years prior to this appropriation, and, to administer the earmarks, FEMA abruptly resumed the use of the PDM program for these new projects, which was previously planned to be a “legacy” program replaced by BRIC. The implementation of the Congressionally mandated predisaster mitigation community projects require significant information collection activities such as project eligibility verification, project applications, benefit cost determinations, and environmental and historic preservation reviews. The PDM had no way to anticipate the requirements of a one-year appropriation, the level of funding, the complexity and numbers of projects, and the information collection requirements imposed by the 2022 appropriations act. The time frame established by the one-year FY 2022 appropriation to define and execute the program processes is extremely constrained. Therefore, no existing information collection accounts for the FY 2022 project activities, applications, project eligibility processes, and other information collection requirements.
- The FMA program is allocating \$60,000,000 of IIJA funding for the FMA “Swift Current” Initiative in response to Hurricane Ida disaster impacts in late August 2021. The intent of the “Swift Current” Initiative’s is to make flood mitigation assistance concurrent with the disaster recovery timeframe, in advance of the normal annual grant process. The “Swift Current” Initiative is intended to target assistance for repetitively flooded and substantially damaged buildings insured under the NFIP. The “Swift Current” Initiative requires program information collection activities to align flood mitigation assistance and disaster recovery investments as close to the 2021 Hurricane Ida disaster impacts and the August 1, 2022, “Swift Current” application deadline as possible. The FMA program could not accurately specify until recently the FY 2022 level of state and Tribal response, the number of sub applicant applications, and the extent of information collection activities required with the launch of the new initiative. The “Swift Current” Initiative will assess specific project level information and begin to award grants at the close of application deadlines on August 1, 2022.
- The IIJA increased funding for annual FMA program activities from \$175 million to \$875 million starting in FY 2022. FEMA posts HMA NOFOs for the FMA grant program annually. Revisions to the existing information collection authorization are necessary to account for the fivefold funding increase impact on applications, data collection requirements, cost effectiveness, program performance metrics, environmental and historic

preservation processes, project monitoring data requirements, and data that verifies local project conditions and socioeconomic context. The FMA programs could not specify, until very recently, the impact of significant increase funding increases and legislative requirements on FY 2022 state, Tribal, and local community response and corresponding information collection requirements until recent weeks.

- The IIJA also authorized substantial increases in funding for the BRIC grant program and the BRIC DTA initiative. The funding increases results in a corresponding increase in information collection requirements for FY 2022 program activities. The increases in funding essentially doubled BRIC program activities and significantly increased FY 2022 information collection requirements including BRIC's DTA initiative activities. BRIC as a relatively new program, implemented in 2020, and has little historical precedent to account for the full scope of information collection requirements induced by IIJA funding. While the programs did expect that increases activities and information collection requirements would increase; programs could not adequately specify the funding impacts on state, Tribal, and local community response until very recently. Responses in FY 2022 BRIC and BRIC DTA project applications, project eligibility processes, financial reporting, performance reporting, and other information collection requirements have increased significantly over FY 2021 levels. FEMA published the 30-Day Federal Register Notice for the current revision of the OMB 1660-0072 information collection on June 29, 2022, and the public comment period on July 29, 2022, but could not until very recently adequately estimate the impacts of IIJA, BABAA legislative requirements, and EO 13985 and 14008 order mandates on FY 2022 information collection activities.

Conclusion

Following the normal clearance procedures for OMB approval to collect information to implement FY 2022 legislative and executive order requirements will delay FEMA’s ability to decrease flood, fire, hurricane, drought, and tornado, disaster risk to nationally significant infrastructure. The programs in this collection significantly increase state, Tribal, and local community capacity to recover from disaster impacts. In accordance with the PRA and OMB’s implementing regulations at 5 C.F.R. § 1320.13, FEMA certifies: (1) this information is essential to the mission of the agency, (2) this information is needed prior to the expiration of time periods established under the PRA, (3) FEMA cannot reasonably comply with the normal PRA clearance procedures because of the public harm is reasonably likely to result if normal clearance procedures are followed, and (4) unanticipated events have occurred. Hazard Mitigation programs were not able to Congressionally directed spending requirements: and increased program requirements driven by IJA legislation and executive order mandates. The FY 2022 and beyond legislatively and executive order-induced changes to the hazard mitigation programs under this collection require significant information collection adjustments to implement FY 2022 and FY 2023 program requirements.

The Department of Homeland Security respectfully requests your approval of FEMA’s emergency request for the revision of this information collection covering the application and reporting requirements for HMA’s PDM, FMA and BRIC programs. Thank you for your consideration.

Approve

Date

Disapprove

Date