



FEMA

U.S. Department of Homeland
Security
Washington, D.C. 20472

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MEMORANDUM FOR: Richard Revesz
Administrator,
Office of Information and Regulatory Affairs,
Office of Management and Budget

THROUGH: Eric Hysen
Chief Information Officer
U.S. Department of Homeland Security

FROM: Justo Hernández
Deputy Chief Administrative Officer
Mission Support
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SUBJECT: Justification for Emergency Processing: FEMA Grant Programs
Directorate Pilot Programs

The Federal Emergency Management Agency (FEMA) seeks to utilize the emergency process for approval for a new information collection to the Office of Management and Budget (OMB) Collection 1660-NW165. This includes information for two pilot programs: Shelter and Services Program (SSP) Application Worksheet (FF-008-FY-23-105), Shelter and Services Program (SSP) FEMA A-Number Submission Template (FF-008-FY-23-106), Shelter and Services Program (SSP) Program Specific Required Forms and Information (FF-008-FY-23-107), State and Local Cybersecurity Grant Program (SLCGP) Investment Justification Form (FF-008-FY-23-103), and State and Local Cybersecurity Grant Program (SLCGP) Project Worksheet (FF-008-FY-23-104). These programs are not on the same notification of funding opportunity release timeline as the programs covered in Emergency Collection 1660-0156, and the instruments for these programs were not ready to be included in that emergency collection at time of submission.

It is vital that FEMA implement the information collection as soon as possible to support immediate needs in response to delivering and supporting grant programs that help the Nation before, during, and after disasters in order to make the country more resilient. In accordance with the Paperwork Reduction Act (PRA) and the Office of Management and Budget's (OMB) implementing regulations at 5 C.F.R. § 1320.13: (1) this information is necessary to the mission of the Agency, (2) this information is necessary prior to the expiration of time periods

established under PRA, (3) public harm is reasonably likely to result if normal clearance procedures are followed, and (4) the use of normal clearance procedures is reasonably likely to cause a statutory deadline to be missed. See below for further explanation regarding (1)–(4).

1. Information is essential to the mission of the agency

On December 29, 2022, the President signed the Consolidated Appropriations Act, 2023 (Pub. L. No. 117-328) (“Omnibus”), which includes statutory appropriations for SSP. The purpose of this authority is to “support sheltering and related activities provided by non-federal entities, including facility improvements and construction, in support of relieving overcrowding in short-term holding facilities of Customs and Border Protection (CBP).”

On November 15, 2021, the Infrastructure Investment and Jobs Act (IIJA), which amends Section 2220A of the Homeland Security Act of 2002 to include statutory language for cybersecurity grant programs, became a law. The purpose of this authority is to “award grants to eligible entities to address cybersecurity risks and cybersecurity threats to information systems owned or operated by, or on behalf of state, local, or tribal governments.”

Because FEMA is responsible for implementing and ensuring compliance with these programs, and Congress authorized \$1.2 billion in FY 2023 in funding to support these programs, FEMA requests an emergency approval to collect the necessary information from eligible entities to administer the award processes.

2. The information is needed prior to expiration of time periods established under PRA.

The SSP grant was established at the end of December 2022 as previously noted. \Since that time, DHS has had a team working to develop the new program. This work included significant outreach to potential applicants to inform the program. Secretary Mayorkas approved the SSP on May 25, 2023, and because of the dynamic situation on the southwest border, he has directed FEMA to issue the SSP Notice of Funding Opportunity (NOFO) as a critical, immediate priority to ensure the safe and humane processing of noncitizen migrants. The release of the NOFO will allow the funding to be distributed in a timely manner to fund necessary services including, but not limited to, shelter, transportation, and medical needs. Because of the dynamic nature of the operations, DHS has withheld funding for another tranche of funding. A second, virtually identical NOFO, will be announced in July 2023 for the remaining SSP funding. FEMA must ensure all SSP funding is obligated by September 30, 2023 due to the appropriation expiration of these funds. However, given the border crisis and the Secretary’s priorities, FEMA expects that funding will be issued within a matter of weeks after the first and second NOFOs are published, which makes following the normal PRA process and meeting the operational requirements, impossible. It is contrary to the public interest to delay implementing this information collection until after FEMA has completed the standard PRA process. It is also unclear whether the SSP will continue to be appropriated in FY 2024. However, if so, FEMA would work to ensure compliance with all regulations and requirements relative to PRA compliance.

With respect to the separate but equally important State and Local Cybersecurity Grant Program (SLCGP), FEMA used an instrument from the already-approved information collection 1660-

0125 for the first year this program was published (e.g. the FY 2022 SLCGP, published in September 2022). While the instrument served its immediate purpose, allowing for the NOFO to be issued, it was not tailored for the respective cybersecurity stakeholders. Due to stakeholder feedback collected in March 2023, the instrument has been revised for the next round of cybersecurity grant funding. In his memorandum identifying DHS priorities for Calendar Year 2023, the Secretary has noted cybersecurity as one of those specific priorities. Both FEMA and the Cybersecurity and Infrastructure Agency (CISA) have been directed to issue the FY 2023 SLCGP as quickly as possible, of which the goal is July 11, 2023. Given this edict, it would thus be impossible to complete the normal PRA process before the statutory deadline. It is contrary to the public interest to delay implementing this information collection until after FEMA has completed the standard PRA process. However, the SLCGP has been authorized and appropriated through FY 2025, which will allow both FEMA and CISA to work closely with FEMA, DHS, and OMB colleagues hereafter to ensure appropriate compliance with PRA rules and regulations.

3. Public harm is reasonably likely to result if normal clearance procedures are followed.

The Omnibus authorized \$800 million for SSP. As discussed above, this funding is necessary to ensure the safe and humane processing of noncitizen migrants. Without this funding being made available in a timely fashion, some of the entities that provide these necessary services may run out of funds. This could result in the entities to stop providing these services to the noncitizen migrants potentially creating an unsafe situation.

IJA authorized \$1 billion for SLCGP, made available in four tranches (\$200 million in FY 2022, \$400 million in FY 2023, \$300 million in FY 2024, and \$100 million in FY 2025). Public harm is reasonably likely to result if normal clearance procedures are followed because it will lead to substantial funding not reaching eligible entities that help the Nation before, during, and after disasters in order to make the country more resilient.

Finally, following the normal PRA process may result in a potential lapse of over \$1.2 billion for FY 2023 in federal financial assistance, \$800 million of which is required to be awarded for SSP before the end of FY 2023 and \$400 million of which is included in the SLCGP tranche for FY 2023.

4. The use of normal clearance procedures is reasonably likely to cause a statutory deadline to be missed.

SSP funding is required to be awarded before the end of FY 2023.

Although no-year funding, the amount allocated for cybersecurity grants terminates at the end of FY 2025, with four separate tranches each for FYs 2022, 2023, 2024, and 2025.

5. Conclusion

Due to the need to award funds to eligible entities, FEMA requests emergency processing for instruments related to SSP and SLCGP by May 30, 2023. Given the inability to seek public

comment during such a short timeframe, FEMA requests a waiver from the requirement to publish notice in the Federal Register seeking public comment. As noted earlier, it is unclear whether the SSP will continue to be appropriated in FY 2024. However, if so, FEMA will work to ensure compliance with all regulations and requirements relative to PRA compliance. For SLCGP, this program has been authorized and appropriated through FY 2025, which will allow both FEMA and CISA to work closely with FEMA, DHS, and OMB colleagues hereafter to ensure appropriate compliance with PRA rules and regulations.

Following the normal information collection clearance procedures for approval will delay FEMA's ability to provide appropriated funds to programs that help the Nation before, during, and after disasters in order to make the country more resilient. FEMA certifies that the requirements of 5 CFR 1320.13(a) are met and it is vital this new collection be implemented immediately, because: (1) this information is necessary to the mission of the Agency, (2) this information is necessary prior to the expiration of time periods established under PRA, (3) public harm is reasonably likely to result if normal clearance procedures are followed, and the use of normal clearance procedures is reasonably likely to cause a statutory deadline to be missed.

Thank you for your consideration.