

Considerations for Public Assistance Disaster Grants

How to handle Mitigation, Environmental/Historic Preservation,
and other potential issues

Iowa Homeland Security and Emergency Management (HSEMD)
John Benson, Director



Introduction



David Parziale
Public Assistance Bureau Chief
Email: david.parziale@iowa.gov
Phone: (515) 249-2242

What we'll cover

- General PA programmatic issues
 - Scope of work changes
 - Time extensions
 - Documentation
- Federal requirements for disaster grants
 - Environmental preservation
 - Historical preservation
- Opportunities under federal disaster grants
 - Mitigation measures

WIIFM (What's in it for me)?

- Maximize the amount of funding you get (and don't lose it once you've got it)
- Minimize future damages
- Minimize headaches and delays

General Issues

General Issues

- Grants are written by humans. Check their work!
 - Don't sign if you don't agree with the inspection report, damage inventory (DI), damage descriptions and dimensions (DDD), scope of work, etc.
 - Make sure your project is accurate and complete
 - Take your time (but meet the review deadline)
 - Your signature on any document means you agree with its contents
- Damage inventory
 - Does it contain everything? Is it accurate?
 - Recommended to check the site again before 60-day DI signature deadline
 - Did anything change since you last looked at it?
- Scope of work
 - SOW must match the work you do/did.

General Issues

- Don't withdraw anything too soon
 - Projects covered by insurance may end up needed and eligible
 - Insurance actuals may be less than expected
 - Mitigation of future hazards is still an option
 - Very hard to add items back into the Damage Inventory (DI) after the 60-day deadline
 - Recovery plans might change, but you need the recorded damage to justify recovery
 - Additional damages or costs may be discovered
 - Policies could change
 - Policy clarifications can change eligibility considerations
 - Federal cost-share increase (federal funding laws may change)

General Issues

- Projects, timelines, and goals change
 - Request a scope change and let your HSEMD representative know as soon as something changes. Improvements, Alternatives, Mitigation, etc.
 - Codes and standards require upgrades
 - Undiscovered damages
 - Adding or removing work
 - Using different materials, equipment, etc.
 - Errors in project development
 - Time Extension requests may be granted, e.g. if a scope of work changes, weather delays work, you experience supply chain issues, etc.
 - Time extensions should be requested at least 30 days prior to the current work deadline
 - Scope change and time extension requests should be submitted in EMGrants
 - Include detailed justification and documentation
 - It is NOT better to ask for forgiveness than permission.
 - Funding may be jeopardized if the work done does not match the scope of work.

General Issues

If a Recipient or Applicant fails to comply with any term of the PA award, FEMA may take one or more of the following actions, as appropriate for the circumstances:

- Temporarily withhold cash payments pending correction of the deficiency by the Recipient or Applicant
- Deny the use of funds and matching credit for all or part of the cost of the activity not in compliance
- Completely or partially terminate the current award for the Recipient or Applicant's program
- Withhold future grant program awards
or
- Take other remedies that may be legally available

General Issues

Documenting Pre-disaster Conditions

- The level of documentation may vary by facility/repair measure, but it is necessary to establish that damages are incident-related.
 - Examples include photographs, inspections, appraisals, record of maintenance plan and activity logs, maintenance contracts and invoices, geotechnical or hydrologic studies, soils analyses, inventories, engineer's certifications, facility plans & specifications, etc.
- Deferred maintenance makes it hard to show damage is incident-related. FEMA will not pay for damage caused by deferred maintenance.
- When establishing repetitive debris routes that may cause road damage, take before-and-after photos.

General Issues

Documenting Pre-disaster Conditions

- Photographs: what if you don't have any?
 - Google street-view
 - Look for photos from community events, in newspapers, websites, etc.
 - Crowd-source: ask the community
 - Check with local law enforcement for dash-cam records that might show pre-disaster or post-disaster conditions

General Issues

Documenting Damages

- Inaccessible sites with potential damage
 - E.g. submerged facilities, ducts/pipes/electrics behind walls later removed
 - Damages can be added later, but you should show why it was not visible
- Make it clear what photographs are showing and where they were taken
 - What is it?
 - Location (lat/long is helpful), direction
 - Peripheral context (what's nearby? where is this in relation to other facilities)?
 - Captions can be helpful
- Document costs for disaster-related damages separately from other costs
 - E.g. costs for a city-wide debris cleanup can't include unrelated household trash

Tips & Takeaways

- Know what you're signing. Review the details.
- If you need more time, ask for an extension sooner than later.
- Keep HSEMD in the loop. We're on your team. Let us know if
 - project scope/details change (or if you want them to)
 - time is needed
 - you receive inconsistent information
 - anything is unclear
- Provide the standard documentation if you can, but don't worry if it's not immediately available. Save anything that can strengthen your case.

Environmental & Historical Preservation (EHP)

EHP

- Every project goes through EHP review
- FEMA must follow state & federal laws, including National Environmental Policy Act (NEPA), National Historic Preservation Act (NHPA), Endangered Species Act, Clean Water and Clean Air acts, Migratory Bird Treaty Act, and federal executive orders regarding environmental justice, floodplain development, and wetland conservation.
- EHP staff will look at effects from your project on:
 - ▶ Water quality
 - ▶ Air quality and noise
 - ▶ Vegetation and wildlife
 - ▶ Endangered species and their habitat
 - ▶ Debris storage, reduction, and disposal sites
 - ▶ Environmental Justice
 - ▶ Socioeconomic and cultural resources
 - ▶ Hazardous Materials
 - ▶ Geology
 - ▶ Historic Properties
 - ▶ Archaeological sites
 - ▶ Properties with sacred/cultural significance to tribes
 - ▶ Floodplains and wetlands

Environmental Preservation

- NEPA: considering impacts of actions on the human environment
 - Most project types do not need much review (“CatEx” or “StatEx”)
 - Permanent Work Projects that restore a damaged facility essentially to pre-disaster design are excluded from NEPA review (PAPPG v4 at 141; 41 U.S.C. § 5159)
 - Categorical Exclusions (CATEXs) under NEPA apply to actions that typically have little or no impact on the environment, as long as there are no “extraordinary circumstances” (PAPPG v4 at 141)
 - EHP will still review for compliance with other laws

Environmental Preservation

- NEPA: considering impacts of actions on the human environment
 - Some projects may require a lengthy review
 - An Environmental Assessment (EA) or Environmental Impact Statement (EIS) may add weeks or months to the project timeline, depending on the project size and impacts.
 - If an EA or EIS is needed, applicants must obtain FEMA approval prior to conducting the review, and must submit the results to FEMA prior to performing the work.
 - Applicant conducts the review; FEMA reimburses the associated cost based on the cost share of the project.
 - EHP staff will discuss your project and its environmental impacts with you

Environmental Preservation

- Heightened review (Environmental Assessment, EA) may be required if:
 - The project engenders a public controversy
 - There may be impacts to endangered species (and their habitat), historic properties, wetlands
 - Pollutants or hazardous material on site may pose a hazard to human or environmental health in the course of the project
 - Cumulative impacts of human activity in the area may reach the level of “significant”
- An Environmental Impact Statement will be prepared if the EA shows potential for significant impacts

Environmental Preservation

- DNR and USACE permits
 - FEMA will check to make sure that you have/had all necessary permits
 - Keep record of your approval/permit, or a confirmation from the permitting agency that a permit is not required, not just your application
 - Even if an individual permit is not required, document any evidence of compliance with general permits
 - These permits are almost always required for work that is in, near, or may affect waterways and wetlands
 - Check with Iowa DNR and USACE
 - iowadnr.gov/Environmental-Protection
 - <https://programs.iowadnr.gov/perm/perm/perm/PQC>
 - <https://www.usace.army.mil/Missions/Civil-Works/Regulatory-Program-and-Permits/Obtain-a-Permit/>
 - DNR permits are required for:
 - Some debris staging (whether vegetative or not)
 - Open burning and projects affecting air quality
 - Floodplain development
 - Excavation and fill
 - Public water supply and wastewater facilities, landfills, pollution discharge points

Historical Preservation

- Per the National Historic Preservation Act, FEMA works with the State Historic Preservation Office (SHPO) and Tribal Historic Preservation Offices (THPOs) to ensure that projects preserve the historic or cultural character of the area and that archaeological artifacts are not endangered or destroyed.
 - Twenty-four recognized tribes have an interest in Iowa historical preservation.
- FEMA EHP team will want a closer look for facilities:
 - Located in floodplains
 - Being relocated or expanded beyond original footprint
 - Older than 45 years (including buildings, objects, bridges, structures, etc.)
 - With exceptional significance
 - Listed in the National Register of Historic Places
 - Near archaeological sites
- Similar to NEPA reviews, in-depth NHPA reviews can add months to a project
- More information: <https://iowaculture.gov/history/preservation>

EHP

Common Issues

- Ground disturbance
 - May unearth artifacts or unseen hazards. Must be reviewed prior to construction
 - Potentially historic artifacts discovered must be reported immediately
 - Stump removal is considered ground disturbance
 - Flush-cutting stumps at ground-level removes this concern
 - Temporary access roads
 - Burying utilities
 - “Undisturbed ground” is broadly interpreted and depends on depth. Even farm fields might be considered “undisturbed” below a few inches.

EHP

Common Issues

- Demolition

- Basements to be filled, removed, and/or modified for drainage
- Utilities (wells, pipes, electricity, sewer, septic systems, etc.) will need to be capped or removed.
- Debris should be properly disposed of (especially with danger of lead or asbestos)

EHP

Common Issues

- Endangered Species Act compliance
 - Power line repair and new overhead power lines must be screened for impacts on migration corridor of Whooping Cranes
 - Tree removal for accessing a damage site for permanent repair must be screened for impacts on Indiana and Northern Long-eared Bats.
 - Work in rivers and streams may require review & special measures for Topeka Shiners (an endangered minnow)
- Iowa law lists 46 endangered and 35 threatened animal species, and 34 species of special concern. 571 IAC 77.2



Iowa DNR

EHP & Debris

- EHP follows the impacts of debris “from cradle to grave”
- Debris staging sites are not as simple as they sound
 - Can disturb ground or release pollutants
 - Place on previously disturbed ground (roads, parking lots, sites previously used for debris)
 - Maintain distance from property boundaries, water, floodplains wetlands, structures, wells, and septic leach fields.
 - Treat it like a burn site: talk with DNR, get a permit if needed, and document compliance
 - If in a floodplain, may require floodplain administrator approval
- Final disposal of debris
 - What landfill / burn site / salvage / recycling service? Where? In a floodplain?
 - Burning will require Clean Air Act review and permit from Iowa DNR
 - Sandbags that absorbed flood water are considered hazardous. Dispose accordingly
- Document your debris removal, staging, reduction, and disposal
 - Locations (source, staging, & destination), amounts, costs, hours, volunteers
 - Take lots of pictures

Tips & Takeaways

- Consider EHP from the start
- Read FEMA's greensheet for the current disaster
- Work within an old footprint, if possible
- Speed up EHP review with previous studies done for the area/watershed
- Provide site plans for new ground disturbance, including perimeter and depth of disturbance
- Designate debris staging areas (and check with DNR) prior to use, if possible
- Provide accurate GPS locations for all project sites
- Provide dates of construction for all man-made facilities
- Identify where fill material or gravel are coming from
- Let HSEMD and FEMA know **immediately** if anything changes in the project that could trigger new environmental concerns
- DOCUMENT

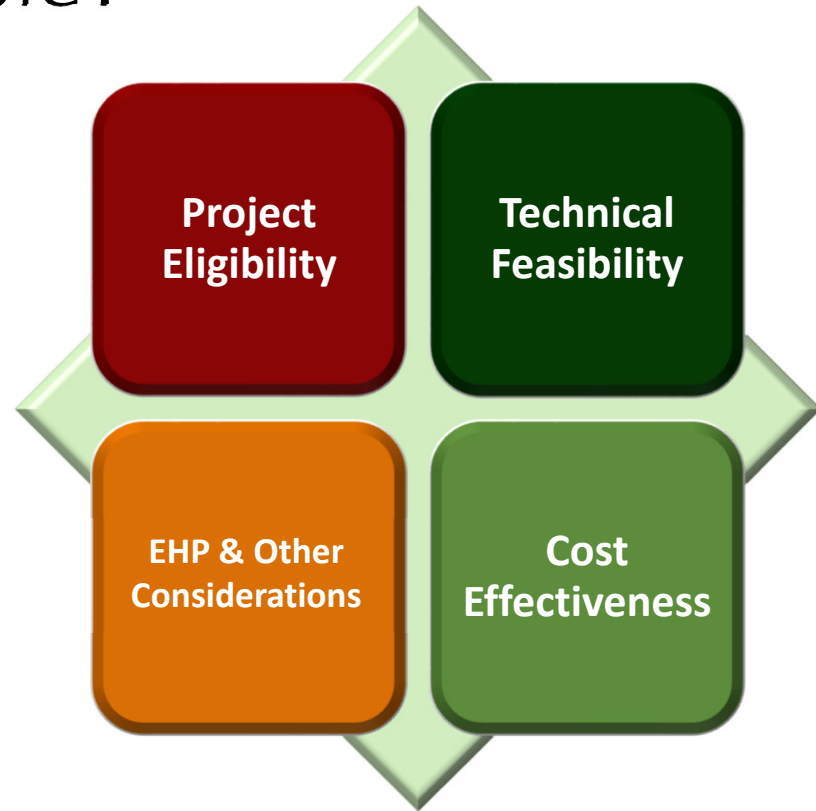
PA Mitigation

What is hazard mitigation?

- Any sustained action taken to reduce or eliminate long-term risk to people and property from natural hazards and their effects. PAPPG V4, p. 153
 - In other words, repair such that this doesn't happen again.
 - Only for permanent work projects (Categories C-G)
- Examples include:
 - Using stronger materials
 - Elevating, burying, or flood-proofing utilities and facilities
 - Straps, guy-wires, braces, tie-downs, anchors, etc. to secure roofs, poles, and structures
 - Protecting or strengthening doors and windows
 - Adding redundant utilities to prevent loss of service
- FEMA pays the same cost share for PA mitigation measures as they do for repairing to pre-disaster condition

What mitigation is eligible?

- Four Eligibility Criteria – Mitigation must be:
 - Able to directly reduce the potential of future damage to the damaged portion(s) of the facility
 - Technically feasible and effective mitigation
 - Cost-effective
 - Compliant with all laws and Executive Orders



What mitigation is eligible?

- Measures protecting the damaged portion of the facility
 - Not necessarily a part of the damaged portion; e.g. a perimeter floodwall might protect a hospital basement that flooded
 - Mitigation for undamaged but interdependent elements of a damaged system may also be eligible.
- Mitigation against ANY disaster type the facility may experience
 - Not just the disaster type that caused the current damage
 - Flood, tornado, fire, extreme temperatures, ice, snow, wind

What mitigation is eligible?

- Cost-effective mitigation (calculated prior to any insurance)
 - Any measures costing up to 15% of the repair cost being protected
 - Any measures costing up to 100% of the repair cost being protected if on an approved FEMA list (PAPPG Appendix J)
 - Any measure shown to have benefits outweighing costs by FEMA's benefit-cost analysis (BCA)
 - FEMA will run the BCA using its Excel add-on software
- May be combined with Improved Project to meet cost-effectiveness requirement

$$\frac{\textit{Mitigation Cost}}{\textit{Repair cost being protected}} \leq 15\%$$

$$\frac{\textit{Mitigation Cost}}{\textit{Repair cost being protected}} \leq 100\%$$

$$\frac{\textit{Benefit to Society}}{\textit{Cost to Society}} \geq 1.0$$

How do I do mitigation?

- Ask your FEMA PDMG or HSEMD representative about mitigation
 - Mitigation specialists will look at your project, discuss the options, and write a hazard mitigation proposal (HMP)
 - You will need to provide a cost estimate for the mitigation measures
 - You may be asked to provide information to calculate a BCA, e.g. historical damages and casualties, population served, etc.
- If you decide to move forward with the HMP, it will be a part of your PA project's scope of work that you sign off on.
 - Unless you request a scope change, mitigation must be performed as written
- You or your contractors do the mitigation work
- HSEMD and FEMA will check that the mitigation is performed during project closeout

Mitigate under PA or HMA programs?

PA (406)

- Improve an existing facility
- Mitigate a damaged portion/facility
- Automatic facility eligibility if eligible for PA funds
- Flexibility with small-cost measures (no BCA needed under 15% rule or 100% rule)
- Can be retroactively funded or funded prior to work
- More 406 dollars: more 404 dollars

HMGP (404)

- New or existing facility
- Mitigate an undamaged portion/facility
- Potentially longer timeline
- Compete statewide for limited program dollars
- State sets funding priorities
- Must pass BCA
- Approved and funded prior to any work

Mitigation

Common Issues

- EHP review
 - EHP did not have a chance to review mitigation proposals; funding jeopardized
 - Mitigation disturbs new ground, falls outside StatEx
 - Check with your FEMA or HSEMD point of contact ahead of time
- Cost and cost-effectiveness
 - BCAs may require significant documentation of costs avoided, historical damage
 - The added cost of mitigation, while typically a good investment, may be beyond an applicant's budget
- Unfamiliarity with new policies
 - Eligibility rules for PA Mitigation have changed recently
 - Old information may still be floating around
 - Resilience has become a greater priority for FEMA and HSEMD
- Repair was already completed without mitigation
 - FEMA will not pay for duplicative work, but still covers mitigation

Mitigation

Tips & Takeaways

- Ask your PDMG or HSEMD point of contact about mitigation options
- Even if insurance covers your damages 100%, you could receive up to or beyond the same amount from FEMA to avoid future damages
- Using PA mitigation reduces effects of future disasters and puts money in Iowa's pocket for even more hazard mitigation
- Plan how/what you want to mitigate before disasters strike
- Mitigation may still be eligible after repair is complete
- Make sure the project as written is what you wanted
 - If you change your plans, let HSEMD and FEMA know

Questions?

HSEMDRecoveryPA@iowa.gov



David Parziale
Public Assistance Bureau Chief
Email: david.Parziale@iowa.gov
Phone: (515) 249-2242