Residential Recovery from Flood Events: FEMA Buyout Programs

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What is the Acquisition / Buyout Program?

✓ FEMA’s acquisition/buyout mitigation activity helps communities purchase flood-prone properties.

✓ Acquisitions are funded by FEMA HMA Grants and the funds are requested by and managed by OEM.

✓ Participation in FEMA’s acquisition programs is strictly voluntary and property owners are not required to participate.
HMA Grants

- HMGP-assists in implementing long-term hazard mitigation planning and projects following a Presidential major disaster declaration.

- PDM-provides funds for hazard mitigation planning and projects on an annual basis.

- FMA-provides funds for planning and projects to reduce or eliminate risk of flood damage to buildings that are insured under the National Flood Insurance Program (NFIP) on an annual basis.
Types of Acquisition

1. Acquisitions and Demolition: Community purchases structure and the land

2. Acquisition and Relocation: Community purchases land and assists the property owner with relocating the structure outside the SFHA
Demolition or Relocation?

✓ Decision is up to the property owner and MUST be specified in the project application.

✓ For relocation, the following conditions must be met:
  ▪ The structure must be sound and feasible to move, and
  ▪ The house must be relocated outside of any floodprone area.
Addressing Misinformation Following the 2019 Flood

✓ Property does NOT have to have flood insurance to be acquired by HMGP or PDM
✓ Property does NOT have to be a RL or SRL property
✓ Property does NOT have to be primary residence
✓ Project MUST meet Uniform Relocation Act requirements
✓ Property does NOT have to be in the FEMA mapped floodplain
The Application Process

- Is Funding Available?
- Notice of Intent
- Application Development
- State Review
- FEMA Review
- Award and Implementation
Application Review Criteria

- Eligibility/Feasibility
- Cost Effectiveness
- EHP Compliance
- Completeness
- Plan Alignment
The applicant or subapplicant must provide a map that clearly identifies the structure’s footprint and delineates the 100-year SFHA, using the FIRM or best available data. If any part of the structure lies within the 100-year SFHA, the applicant or subapplicant can use the pre-calculated benefit value to demonstrate cost effectiveness. As an alternative, First Floor Elevation (FFE) and Base Flood Elevation (BFE) can be provided for each structure. If the FFE is lower than the BFE, pre-calculated benefits can be used to demonstrate cost effectiveness. No other detailed analysis is required. These pre-calculated benefits can be used in 100-year floodplains in riverine and coastal areas.
Average Timelines

**HMGP Timeline**

- Disaster Declaration
- Funding Available
- Application Submittal
- FEMA RFI Process
- FEMA Award

12-18 months | 6-12 months

**PDM/FMA Timeline**

- NOFO Published/Application Period Open
- Application Review & Submittal
- FEMA Review Process
- FEMA Award

3 months | 1-2 years
Local Match Options

- Increased Cost of Compliance (ICC) claim benefit amount can also go towards the local match of a buyout if the property owner has been substantially damaged*

- CDBG may be used as a match if any is available. You must ensure funds are eligible to be used as cost share as not all CDBG funds are eligible

- Property owners – Property owners may use savings, loans, insurance payments. General purpose SBA loans may be an option to match HMGP.

- A property owner participating in an acquisition project may accept a portion of the appraised value of the house and apply the rest of the appraised value to the non-Federal cost share.
The Acquisition Process
### Possible Timeline Post Award

<table>
<thead>
<tr>
<th>Typical Project Timelines*</th>
<th>Month 1</th>
<th>Month 2</th>
<th>Month 3</th>
<th>Month 4</th>
<th>Month 5</th>
<th>Month 6</th>
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<tbody>
<tr>
<td>Appraisals</td>
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<td>Closings</td>
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<td>90 - 120 days</td>
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<td>Relocations</td>
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<td>180+ days†</td>
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* Project schedules can be modified to accommodate cash flow.

† According to the URA, displacees have up to one year to lease/purchase and occupy a replacement site, and an additional six months to file a payment claim.
Prioritizing Properties for Acquisition

Kingfisher: Fundamentally prioritized properties based on flood depth because limited amount of funding available

Claremore: More targeted approach. Properties on Archer Ct and Robin Rd identified in MDP.
Property owners who choose to sell their properties to the community as a result of a FEMA property acquisition project do so voluntarily and are not eligible for relocation assistance.

However, tenants of those properties might leave their homes involuntarily. Therefore, they might be eligible for assistance under the URA.

**YOU MUST** have knowledge of the URA and FEMA requirements to be successful in this process.
FEMA Timelines and URA Timelines

The tenant’s eligibility time extends beyond the grant term. Once the 12-month window of eligibility expires or the tenant moves (whichever comes sooner), the relocation agents may waive the 6-month filing period per URA Section 24.207(d)(2) which allows an agency to waive or shorten the 6-month time period for filing time (in this case to 30 days).
Severing Deeds

Once funds have been awarded, 44 CFR. § 80.11(c) prevents land from being subdivided prior to acquisition except the portions outside of the hazard area. The intention of the regulation was likely to prevent property owners from portioning off land and rebuilding in the floodplain. The rule, however, does not provide any exceptions.
Deed Restrictions

Federal law requires properties acquired with FEMA funds in structure demolition or relocation projects to be maintained as *open space in perpetuity*.

Recipients and subrecipients to be responsible for oversight in ensuring and enforcing proper land use and for coordinating with FEMA on any future land use or property disposition issues.
Severing Deeds and Deed Restrictions

Real Issue:

After an inquiry we discovered a parcel still owned by resident was originally listed on the same deed as an acquired parcel, but subdivided prior to acquisition in 2013.

Lot was removed due to an encroaching parcel. Fully legal at the city level. Decision was made in good judgement, but unfortunately went against the grant guidelines.
Asbestos and Demolition Timelines

Asbestos Abatement can get very expensive, but is reimbursable. It also takes a fairly long time, so consider the following……

Existing buildings that are part of an open space acquisition and demolition or relocation project must be removed and disposed of in accordance with applicable laws within 90 days of closing and settlement of the property acquisition transaction.

44 CFR Allows Regional Administrator to extend the 90 day period.
Lots of Possible Issues...

Communication with Spanish-speaking stakeholders, including translating documents, materials, and slides, and hiring translators for meetings.

Negotiations with banks regarding properties in active foreclosure.

Coordination with property owners in other countries.

Coordination among multiple owners.

Death of property owners and tenants during a project.

Communication with tenants who are incarcerated and entitled to URA benefits.
Summary

1. If the county chooses to pursue funding, the project will not begin overnight
2. State will not know how much funding is available until 30 days from Declaration
3. May not be enough funds to acquire all properties
4. Process may take time if you have tenants, environmental issues or title issues.
5. You may need to hire a contractor to help with implementation
Resources

- **HMA Toolkit** – Job Aids, Sample Documents and Spreadsheets used to assist in Application Development

- [https://ok.emgrants.com/](https://ok.emgrants.com/) - OEM HMGP Grants Portal

- [https://www.fema.gov/mitigation-egrants-system-0](https://www.fema.gov/mitigation-egrants-system-0) - The MT eGrants system for the Pre-Disaster Mitigation (PDM) and Flood Mitigation Assistance (FMA) grant programs

Thank you.