

# The BFE\*

\* BASE FLOOD ELEVATION

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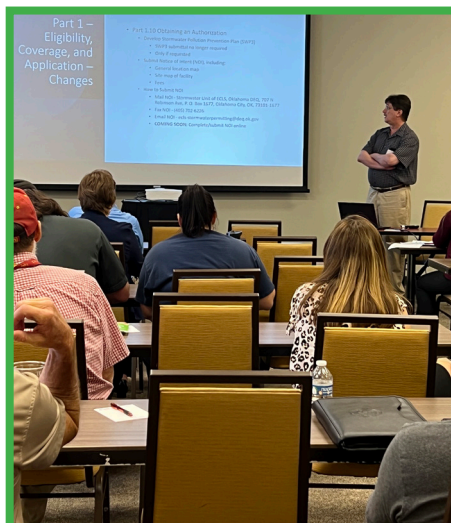
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## 2022 Stormwater Quality Technical Update

This year's OFMA Stormwater Technical Workshop was held at the NCED Conference Center in Norman, OK, July 20, 2022. A special thank you to Morgan Lozoya of Meshek & Associates, and those who helped make this year's workshop a success. We heard from speakers on Stormwater Funding Opportunities, OKR05 Permit Renewal Update, OKR10 Inspections, Bacterial TMDL Implementation and MORE! With over 130 attendees, we are so happy to see everyone and look forward to the OFMA Annual Conference.





## Words from the Chair

Ellen Stevens PhD, PE, CFM | OFMA Chair

### Greetings OFMA members and BFE readers,

I'm out of the country right now, so mostly having a news blackout. But even this far away, the main news I have heard from occasional pop-ups on my phone is about the terrible flooding and loss of life in Kentucky. It reminds me of how important everyone in our association who contributes to keeping people safe is.

I want to thank everyone who made our stormwater workshop a success. Always hesitant to name names in case I leave someone out, but I would like to recognize Morgan, Michelle, Carolyn, and Brandon for all their efforts.

Our next event is the Conference, September 19-21 at the Choctaw Resort in Durant. A call for presenters has already been sent out. If you would like to present, please send in an abstract as soon as possible.

Don't forget, that OFMA exists to serve the membership. If you have any ideas or suggestions, I would love to hear from you.

*Ellen Stevens*

## 2022 SAVE THE DATES

### 2022 OFMA Annual Conference

September 19-21, 2022

Choctaw Casino Resort  
4216 South Highway 69/75  
Durant, OK 74701

## Capitol Rumbblings

Tom Leatherbee CEC, MCP, CFM | Insurance and Regulatory Affairs Chair



With the state legislature adjourned sine die and Washington generally stagnated in the summer heat, this edition of Capitol Rumbblings provides an opportunity to focus on a topic of great interest to local officials and the private sector professionals who support them – obtaining and managing federal funding.

For many years, OFMA, along with partners at FEMA Region VI and OEM, have provided information and training about accessing pre- and post-disaster funding, including Hazard Mitigation Assistance (HMGP, FMA, BRIC, PDM) and Public Assistance. Recently, the federal funding universe available to local governments has changed dramatically and the funding streams relevant to floodplain and stormwater management extend far beyond traditional FEMA funding. The Infrastructure Investment and Jobs Act (IIJA) contains billions of dollars in funding available to states and local governments. Many grant programs have specific eligibility criteria related to resilience and equity.

A few opportunities within the IIJA of particular note include:

- **PROTECT.** The Promoting Resilient Operations for Transformative, Efficient, and Cost-Saving Transportation (PROTECT) program provides funding for climate-based resilience projects. Most, but not all, eligible projects will have some nexus to transportation infrastructure. The program has both formula and competitive components. The formula allocations were recently announced, with Oklahoma expected to receive over \$121.5 million in the next five years.
- **STORM Act.** The Safeguarding Tomorrow through Ongoing Risk Mitigation (STORM) Act was originally passed in 2021 and received initial funding as part of the IIJA. STORM creates a revolving loan fund for mitigation, including activities that have traditionally been difficult to fund, such as resilient land use planning. Federal guidance has recently been issued, and a number of states have taken steps toward implementation. OFMA is currently engaging our federal and state partners to find an implementation path for the STORM Act in Oklahoma.
- **National Culvert Removal, Replacement, and Restoration Grant.** This is a competitive grant program with a total of \$1 billion in funding for culvert projects. State, local, and tribal governments are eligible applicants. The Notice of Funding Opportunity is expected this summer.

These programs are only a few of the funding streams contained within the IIJA. More information about the IIJA programs can be found on the White House Infrastructure website at [www.build.gov](http://www.build.gov) and on various agency websites.

It is also important to remember that funding from ARPA's Coronavirus State and Local Fiscal Recovery Funds (SLFRF) program may be used directly for certain stormwater projects under Expenditure Category 5 – Infrastructure and may be used for general flood risk reduction and for non-federal match for federal grants under Expenditure Category 6 – Revenue Replacement. With the US Treasury's SLFRF Final Rule broadening the eligibility for stormwater projects under EC 5 and providing a "standard allowance" for revenue loss for all recipients regardless of actual calculation, SLFRF funding is an opportunity that should not be ignored.

Finally, communities wishing to seek out and administer federal funding must be aware of the costs associated with creating and maintaining the necessary management and reporting infrastructure. Most of these grant programs provide administrative costs (including pre-award costs). Still, significant pre-requisites must be met to apply for and administer these grants in a manner that complies with program regulations and the federal Uniform Guidance (2 CFR Part 200 et seq.). Interested communities may wish to explore options, including seeking technical assistance from federal and state agencies, pursuing grants that have specific funding for capacity building, forming regional/local partnerships, or contracting for consulting support. As always, please contact Tom Leatherbee, Chair ([tomleatherbee@gmail.com](mailto:tomleatherbee@gmail.com)) or Monica Cardin, Vice-Chair ([monica.l.cardin@gmail.com](mailto:monica.l.cardin@gmail.com)) with any questions or to volunteer to serve on the Insurance and Regulatory Affairs Committee.





Annie Vest  
OFMA Community Support Committee Chair

## Biden Administration makes \$2.3 Billion Available for FEMA Building Resilient Infrastructure and Communities in FY2022

President Biden announced executive action that would make \$2.3 billion available in FEMA's Building Resilient Infrastructure and Communities (BRIC) program in FY 2022. While a Notice of Funding Opportunity (NOFO) won't be released quite yet, we can make some assumptions about the priorities for next year and how to prepare.

First, your community must have a FEMA-approved Hazard Mitigation Plan to be eligible for BRIC and any other of FEMA's Hazard Mitigation Assistance programs. The Hazard Mitigation Plan must be approved at the time of application and award, so keep that in mind when applying. At the time of this article, only 37 of the 77 counties have FEMA-approved Hazard Mitigation Plans. If your plan is expired, FEMA's BRIC program can pay for the update and help you prepare for future BRIC funding cycles. With the historic increases in FEMA Pre-Disaster Mitigation funding, every county, municipality, school district, and any other special district would benefit from developing a FEMA-approved hazard mitigation plan.

The next thing to keep in mind is your local match. The BRIC program typically has a 25 percent local cost share requirement. Certain communities may be eligible for an increased federal cost share if they meet the requirements of being an economically disadvantaged rural community, also known as small and impoverished communities. In this case, the cost share is up to 90 percent federal/10 percent non-federal.

The BRIC program is one of several federal programs participating in the Justice40 Initiative. Justice40 prioritizes federal investments benefitting underserved communities. The initiative aims to deliver at least 40% of the overall program benefits to disadvantaged communities. Keep this in mind when identifying a good project within your community and consider using publicly available tools such as the CDC Social Vulnerability Index, National Risk Index (NRI), and the FEMA Resilience Analysis and Planning Tool (RAPT) assist.

### Other important things to note about BRIC

#### Infrastructure Investments

The BRIC program has a deep focus on large-scale resilient infrastructure projects. At the National Emergency Management Association (NEMA) mid-year forum in Alexandria, VA, FEMA Administrator Deanne Criswell discussed the BRIC program and called it an opportunity to make "generational investments." The BRIC program expanded FEMA's Pre-Disaster Mitigation (PDM) program by adding consistent funding and more eligible activities. For those communities that may struggle financially to pay for the upfront scoping costs, FEMA has made project scoping activities eligible to assist communities in funding necessary scoping activities to develop a construction-ready project for future funding cycles. Examples of project scoping activities range from developing hazard mitigation projects and alternatives, including engineering design and feasibility studies, to conducting hydrologic and hydraulic studies.

#### Competition

The program is incredibly competitive. Each state gets a set-aside of funds to use on a limited number of projects. Once the state exceeds the set-aside, projects go to the national competition.

*Continued on page 11*

## Congratulations to the winners of our Turn Around Don't Drown Flood Safety Poster Contest

OFMA appreciates all the hard work of teachers, parents, and many others who supported this year's poster contest. The students who entered also deserve our thanks. We hope that by working together to spread the Turn Around Don't Drown® message. Floodwaters will harm fewer people in Oklahoma.



This year, more than 467 participants submitted their beautiful artwork.

### CONTEST WINNERS

**1ST PLACE** Brooklynn Daugherty, Timber Ridge Elementary

**2ND PLACE** Paisley Neeley, Perkins-Tryon Intermediate

**3RD PLACE** Arena Thomison, Maryetta School

#### HONORABLE

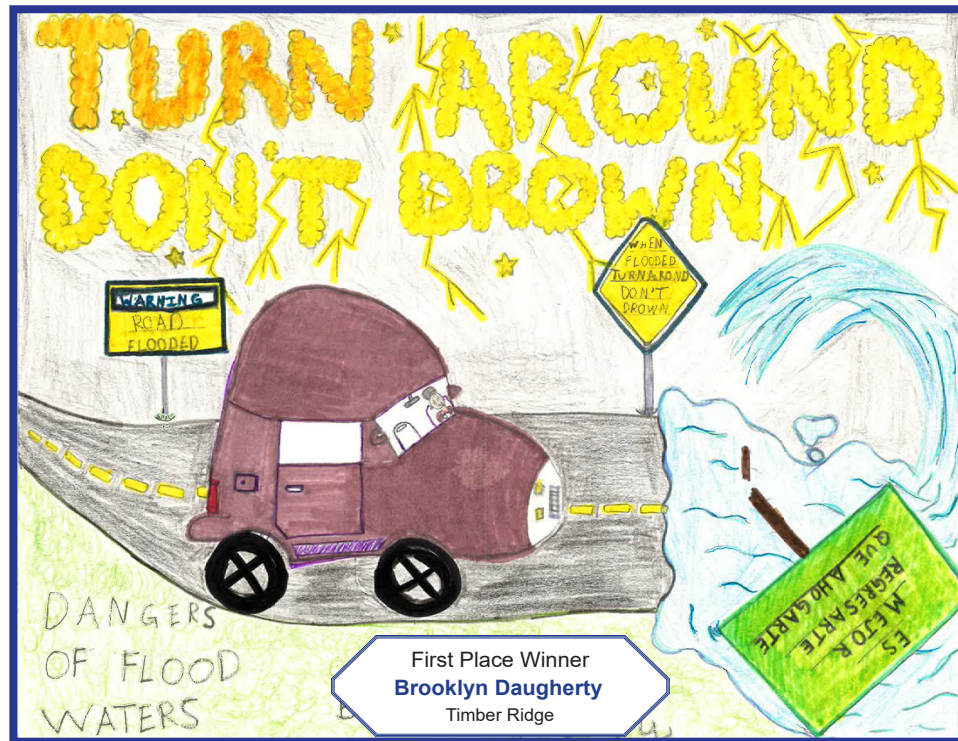
**MENTION** Brettlyn Boyd, Timber Ridge Elementary

First, second and third place winners receive cash awards in the amount of \$150, \$100, and \$50, respectively. The top 13 posters in the state are published in the OFMA Turn Around Don't Drown calendar. Each student participant is awarded a certificate of participation. Teachers receive a letter of appreciation.

#### Thank you to the following schools for supporting student participation in this year's program:

- Beggs Elementary, Beggs
- Bridge Creek Intermediate School, Blanchard
- Bixby Central Intermediate, Bixby
- Cleveland Intermediate School, Cleveland
- College Bound Academy, Tulsa
- Gore LE, Gore
- Leach Public Schools, Rose
- Maryetta Schools, Stilwell
- Norwood Public Schools, Hulbert
- Oktaha Elementary, Oktaha
- Patrick Henry Elementary, Tulsa
- Perkins-Tryon Intermediate, Perkins
- Preston Elementary, Preston
- Rocky Mtn. Schools, Stilwell
- Roosa Elementary, Claremore
- Skiatook Elementary, Skiatook
- South Coffeyville Elementary, South Coffeyville
- Stone Canyon, Owasso
- Timber Ridge Elementary, Broken Arrow

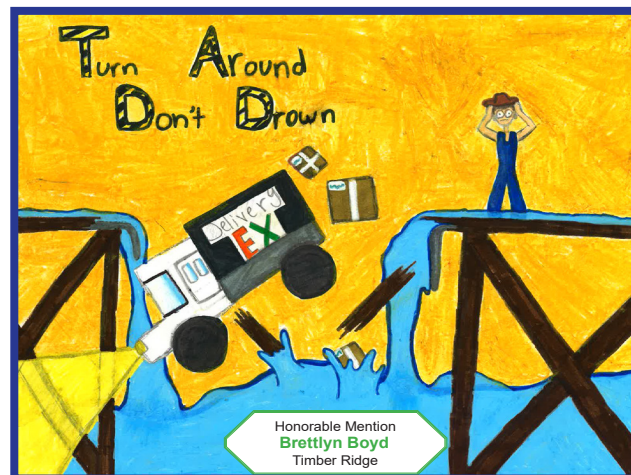




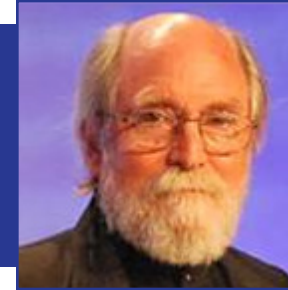
2<sup>nd</sup> Place - Paisley Neeley



3<sup>rd</sup> Place - Arena Thomison



Honorable Mention - Brettlyn Boyd



## OFMA DRT Corner

Rev. W. B. "Bill" Smith, PE, CFM | OFMA DRT Coordinator

So here we are in the dead heat of the summer. Drought conditions are again plaguing Oklahoma and the south-central part of the United States, and the heat is affecting the majority of the United States. Nobody is thinking about the fall and spring rainy seasons and the significant precipitation we had this past spring. Everyone wants some gentle summer rains to cool us off. But I AM!!

I look back at Okmulgee County and our assistance with disaster responses in Henryetta, Dewar, Okmulgee, and Okmulgee County and the disastrous flooding and damages that, in many cases, are still not repaired. I think about the mitigation that should be done in preparation for the Fall 2022 and Spring 2023 spots of rain.

The OFMA Disaster Response Team (DRT) will prepare for the Spring Flood season with training at the Annual Conference. Supplies will be checked, and a request for additional volunteers will be made as our current volunteers continue to dwindle. Please sign up for this training when registering for the Annual Workshop or notify Bill Smith, P.E. CFM, DRT Coordinator ([wbsmith@hisinc.us](mailto:wbsmith@hisinc.us)) if you intend to participate. So, what can a local community do during this period of really dry weather? Large Mitigation projects take planning, design, funding, and construction before implementation. Does your community have or participate in an Individual or Multi-jurisdictional Hazard Mitigation Plan? Check and make sure it hasn't expired. It should not be a document that sits on the shelf and collects dust. It should be a document with many projects that could be implemented.

When we made the response in Okmulgee County after the May 4th rainfall, I observed the flooded waters and why they weren't flowing. What I saw more times than not were crushed culverts, clogged culverts, and overgrown drainage ditches and channels. Our modeling of the floodplains is based on "clean" conditions. It is the community's responsibility to maintain the drainage system. But what about private property? We, as Floodplain Administrators, do not have the right of entry onto private property to mitigate drainage issues unless there is a designated drainage easement that allows us access. So, first, contact the landowner and discuss the observed issues, and request that they be mitigated. If that does not work and impacts upstream or adjacent properties because of a drainage issue, there are only two actions. One is to request the private landowner provide a drainage easement to allow the community to access the land. Most communities don't want to spend the money to do this action. The second is to go to court. Again, most communities or private citizens don't want to take this action because of the political or personal repercussions and legal costs. But if there is a significant issue, it may be the only option.

Back to simple Mitigation actions. Do you know if you cut a round, square-end 24-inch culvert at a 45° angle, you increase the area of the opening by 1.4 times? This allows more water to enter and exit the culvert. Do you know if you remove the accumulated vegetative debris, sediment, and trash from the ends of the culvert more water will flow through it? Do you know that when you cut down the small (or large) trees in the conveyance channel, you are removing restrictions and putting the floodplain channel and overbank areas back to what it is in the floodplain models?

Sometimes "mitigation" for a recent flood event can be as simple as doing routine maintenance. Think about it!!

Be safe out there – drink plenty of fluids, and avoid the heat of the day if you can. We'll chat again before the Annual Conference in September.



## Substantial Damage

For more information on SI/SD requirements please see FEMA Publications P-213 and P-758, or contact the State NFIP Coordinator's office at 405-530-8800.

This is a brief summary of FEMA's guidance and policies on substantial improvement and substantial damage (SI/SD) and what it means to bring structures into compliance with the minimum requirements for new construction. The enforcement of the SI/SD requirements can be a major concern for communities after they experience widespread damage from floods or other disasters.

The purpose of the NFIP is to reduce future flood damage and to break the cycle of repetitive flood damage by encouraging communities to adopt and enforce floodplain management regulations and by providing affordable insurance to property owners, renters, and businesses.

The minimum NFIP requirements apply to new construction of buildings and structures, installation of manufactured homes, and all other development activities in Special Flood Hazard Areas (SFHAs) shown on Flood Insurance Rate Maps (FIRMs).

When improvements to existing buildings, structures, and manufactured homes meet the definition of "substantial improvement," or when damage meets the definition of "substantial damage," communities must enforce requirements to bring those structures into compliance by meeting the requirements for new construction. The SI/SD requirements grew out of the recognition that there were large numbers of buildings and manufactured homes already located in floodprone areas before communities joined the NFIP.

The NFIP requires participating communities to review all applications for development in mapped SFHAs and to enforce their floodplain management regulations and building codes. The local official who is designated to administer those regulations and codes is solely responsible for making SI/SD determinations. The local official reviews information submitted by applicants and may use a combination of information to estimate or verify costs and market values. The review determines whether cost estimates reasonably reflect the proposed work, including all work to repair and restore damaged buildings to pre-damage conditions.

To administer the SI/SD requirements, local officials take four actions: (1) determine the cost of work, (2) determine the market value of buildings, (3) make SI/SD determinations and provide determinations to property owners, and (4) require owners to obtain permits to bring substantially improved and substantially damaged structures into compliance with the floodplain management requirements.

People who own existing buildings that are being substantially improved will be required to make a major investment in them in order to bring them into compliance with the law. They will not be happy. If the buildings have recently been damaged, they might also be financially strapped and your elected officials will want to help them, not make life harder for them.

It is easy to see that this can be difficult to administer. It is also the one time when your regulatory program can reduce flood damage to existing buildings.

### What is substantial damage?

Substantial damage, as defined in 44 CFR § 59.1, means "damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred." Most damage occurs during a single and sudden event, such as a fire, wind storm, lightning strike, falling tree, tornado, earthquake, flood, or natural gas explosion. Damage may also be unrelated to a specific event, such as soil settlement, exposure to the elements, termite infestation, vandalism, deterioration over time, and other causes.

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### THE FORMULA

A project is a substantial improvement if:

$$\frac{\text{Cost of improvement project}}{\text{Market value of the building}} \geq 50 \text{ percent}$$

For example, if a proposed improvement project will cost \$30,000 and the value of the building is \$50,000:

$$\frac{\$30,000}{\$50,000} = 0.6 \text{ (60 percent)}$$

Communities are responsible for evaluating permit applications to perform work on buildings and manufactured homes in SFHAs, including improvements (i.e., rehabilitations, alterations, and additions), repairs, and reconstruction. After damaging events, local officials should proactively tour affected areas to identify buildings that should be inspected or evaluated before repairs are started. Buildings that are subject to the SI/SD requirements fall into two categories:

- Existing structures (sometimes called pre-FIRM structures). Existing structures were already present when FEMA issued a community's initial FIRM. Because they pre-date the regulations, many existing structures were not built in ways that recognized flood hazards. Existing structures are subject to the SI/SD requirements when certain improvements are proposed and when they sustain substantial damage.
- New construction (sometimes called post-FIRM structures). New structures are those built after a community joined the NFIP. Improvements and repairs of these structures, regardless of the nature or value of the work, must not be allowed to alter any aspect that was originally required for compliance with floodplain management requirements. These structures are subject to the SI/SD requirements if a FIRM has been revised and the BFE increases, the flood zone designation changes, or the floodplain management regulations have changed.

### How is market value determined?

Market value refers to the price that a seller of real property can expect to receive from a buyer in a fair and open negotiation. For SI/SD determinations, only the market value of the building or manufactured home is important (land, land improvements, and accessory structures are excluded). In addition, the market value must always be based on the condition of the structure before the improvement is undertaken or before damage occurred. If structures have not been maintained and have deteriorated over time, then the pre-improvement or pre-damage market values are the values as of the date applications for permits are submitted.

Many communities require permit applicants to obtain appraisals of market value prepared by qualified professionals who are licensed to perform appraisals in the State or community where the properties are located. In addition, three other methods can be used to estimate market value:

- Values developed for property tax assessment purposes, adjusted to approximate market value
- Estimates of a structure's actual cash value, including depreciation
- "Qualified estimates" based on the professional judgment of a local official

How are the costs of improvements and costs to repair determined?

"Costs of improvements" include the complete costs associated with all of types of work being done. "Costs to repair" include the costs of all work necessary to restore a damaged building or manufactured home to its re-damage condition. Both include the costs of all materials, labor, and other items necessary to perform the proposed work. Most costs must be included, although certain costs may be excluded.

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Applicants for permits must provide estimates of the cost of the proposed work. Acceptable sources of cost information include:

- Itemized costs of materials and labor or estimates of materials and labor that are prepared by licensed contractors or professional construction cost estimators.
- Building valuation tables published by building code organizations and cost-estimating manuals, and tools available from professional building cost-estimating services.
- “Qualified estimates” of cost prepared by the local official using professional judgment and knowledge of local and regional construction costs.
- Structure owners may submit cost estimates that they prepare themselves. Owners should submit as much supporting documentation as possible.

Costs can also be estimated by using the FEMA Substantial Damage Estimator (SDE) software. The program is most effective in the post-disaster period, when many estimates of repair costs and many substantial damage determinations must be made.

Sometimes the owner’s financial situation does not allow all of the repairs to be done at the same time. Even if an owner elects to perform less work or delay repairs, the substantial damage determination must be made using the estimate of all costs to fully restore the structure.

When repair work is done by owners or volunteers or when labor costs are discounted by contractors, and when materials are donated or discounted, the full costs must be estimated and included in substantial damage determinations.

What steps can local officials take to inform citizens about the permit process and substantial damage determinations?

Local officials should recognize that citizens will have questions about recovery and the process of obtaining inspections and permits. Distributing substantial damage determinations may generate a number of questions. Local officials should be prepared to answer questions throughout the post-disaster recovery phase.

Communities should consider developing and distributing guidance to citizens, property owners, contractors, and design professionals on:

- The importance of having damaged structures inspected before repair work is started
- Activities that require a permit
- Activities that do not require a permit
- The floodplain management requirements that apply when structures in the SFHA are substantially damaged and what it means to bring those structures into compliance
- The availability and benefits of the ICC coverage that is part of NFIP standard flood insurance policies on structures in mapped SFHAs
- The importance of hiring licensed contractors and cautions about fraudulent and unlicensed entities that may take advantage of victims in areas affected by significant events
- The importance of including damage-reduction measures to minimize future flood damage, even if such measures are not required by the community’s floodplain management regulations

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### **Post-Disaster Permitting**

Although it is important to issue permits to allow property owners in SFHAs whose buildings have sustained less than substantial damage to make repairs as soon as possible after a damaging event, it is equally important to make substantial damage determinations and to enforce the substantial damage requirements. Failure to do so means structures would remain vulnerable, may be in violation of floodplain management requirements, and NFIP flood insurance policies may have very high premiums.

### **Grant Programs**

FEMA, working through the States, administers a number of mitigation grant programs that allow communities to apply for funds to implement a variety of flood mitigation projects. Projects that may help owners of substantially damaged structures include acquisition of property (and demolition or relocation of structures), elevating structures in-place on higher foundations, relocating structures to sites outside of SFHAs, and dry floodproofing (applicable only to non-residential structures and historic structures).

Each of FEMA’s hazard mitigation grant programs has specific requirements, notably that projects must be cost effective, which may be determined by a benefit-cost analysis. Visit <https://www.fema.gov/hazard-mitigation-assistance> for more information about the available grant programs.

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### **Biden**

The maximum federal share per project application was \$50 million in previous funding years. Building codes and community BCEGS ratings come into play when applications are reviewed and prioritized. Pay close attention to the Qualitative and Technical Review Criteria from the FY2020 and FY2021 funding cycles when preparing an application before the FY2022 NOFO. I’ve heard from several that have served on the review panels that your application must clearly show how you’ve met the criteria if you want to have a chance of selection.

### **Innovation**

FEMA is looking for innovation. That regional mitigation project you’ve dreamed up but never pursued? That is BRIC. The project your community, county, or watershed needs but could never find the local funds? That’s BRIC. The flood mitigation project not only reduces flooding but also incorporates green infrastructure and specific components that reduce extreme heat and support water quality? That’s BRIC. FEMA is looking for generational investments. Now is the time to collaborate with neighboring communities, counties, Tribes, the state, and the private sector. Partnerships help increase the likelihood FEMA selects your project for funding.

In closing, there has never been a more opportune time to invest in your community infrastructure and mitigate against natural hazards. Now is the time to prepare for the upcoming BRIC funding cycle. For more information, contact Matt Rollins, the State Hazard Mitigation Officer, [matthew.rollins@oem.ok.gov](mailto:matthew.rollins@oem.ok.gov). Stay tuned for details on an OFMA mitigation workshop currently in the planning stages.



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The Oklahoma Floodplain Managers Association publishes the BFE, Inc. Information and opinions contained herein do not necessarily reflect the views of the Board of Directors. Items for publication and other editorial matters should be directed to:

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