



May 11, 2020

Regulatory Affairs Division
Office of Chief Counsel
Federal Emergency Management Agency
8 NE Ste. 1007
500 C Street SW
Washington, DC 20472-3100

RE: Docket ID FEMA-2019-0018 / American Flood Coalition Comments on the Building Resilient Infrastructure and Communities Policy

On behalf of the American Flood Coalition, I am writing to provide comments on the Federal Emergency Management Agency's (FEMA) proposed policy for the Building Resilient Infrastructure and Communities program (BRIC or "Program"). The American Flood Coalition is a nonpartisan group of political, military, business, and local leaders dedicated to advancing proactive solutions to the challenges posed by higher seas, stronger storms, and more frequent flooding.

The development of the BRIC program presents an exciting opportunity to invest in our nation's resilience, build capacity in local communities, and encourage proper hazard mitigation planning. Every \$1 spent on pre-disaster mitigation saves \$4-7 in disaster relief funds. Developing a robust BRIC program saves money in the long run and ensures that states and communities are more resilient to flooding, sea level rise, and other natural hazards.

Key principles for a strong BRIC program

Set aside the full 6 percent from the Disaster Relief Fund for BRIC this year, and provide the full 6 percent in future years. The Coalition strongly encourages FEMA to allocate the full 6 percent calculated from estimated disaster grant expenditures for the National Public Infrastructure Pre-Disaster Mitigation Fund. The long-term success of the BRIC program depends on establishing a strong foundation that can jumpstart resilience projects across the nation.

As state and local governments stretch limited budgets to respond to the COVID-19 pandemic, the full 6 percent set aside from the Disaster Relief Fund ensures that life-saving resilience projects are not sidelined from loss of revenue or depleted emergency management funds. Further, investing in the resilience of our national infrastructure is not just an urgent priority; it is a smart long-term investment that creates jobs, reinvigorates communities, and saves taxpayer dollars. Over time, as communities grow stronger and more resilient, the amount of federal emergency support—and the percentage of funds set aside—will decrease accordingly, reflecting the early, proactive investments made through this program. Only with a bold, early investment in this program can we ensure the safety of our communities and limit future disaster damages.

Ensure that state and local governments can use BRIC funds for planning, design, and early-stage activities. It is essential that the BRIC program allows applicants to use funds for project planning, design, and early-stage requirements, as well as project construction. Small or distressed communities are often unable to apply for project construction grants, as they lack the necessary funding to complete the initial project scoping phase. Additionally, state and local governments may lack the resources to develop a robust hazard mitigation plan, which would increase eligibility and competitiveness for BRIC grant awards. To assist these governments, the BRIC program will allow for funds to be used for project



scoping. FEMA should enable and encourage communities to apply for the mitigation planning and pre-development funds necessary to launch a project, as well as for those funds needed to carry out and construct the project. Providing grants for early-stage activities allows a diverse set of communities to benefit from and fulfill the intent of the program.

Empower states and communities to choose green and natural infrastructure for BRIC projects.

States and communities should have the flexibility to choose the infrastructure solutions that work best for their specific needs. FEMA should provide funding for communities to employ nature-based solutions, as well as provide guidance on incorporating these techniques into flood mitigation projects under the BRIC program. Natural infrastructure, such as living shorelines or green spaces, can also provide additional benefits, such as enhancing outdoor recreation or improving surrounding environments. FEMA can empower applicants by listing nature-based solutions as an eligible project in the BRIC policy and ensuring that the benefit-cost analysis fully accounts for the benefits of these projects.

Engage stakeholders throughout development of the program, and communicate necessary information early and clearly. A robust stakeholder engagement process will make BRIC a stronger and more successful program—and this process must allow state and local officials to provide early input and feedback. That said, as states and communities respond to COVID-19, FEMA must provide information early in the process—this means releasing guides to communities in summer 2020 for preparing applications for fall 2020. In addition, certain BRIC details needed for a successful application process—example projects, application requirements, funding levels—remain unknown. Therefore, clear communication and engagement with state and local officials on BRIC implementation and application requirements will be critical to success this year.

Recommended changes to FEMA's proposed BRIC policy

Allow for direct awards to local governments (A. 3.a. State and Territory Allocation)

Recommendation: FEMA should adjust the BRIC policy to include local governments as eligible applicants to apply to FEMA for assistance and receive awards directly.

Many local governments have limited budgets to face enormous adaptation costs. Local governments, therefore, benefit greatly from hazard mitigation grant programs like BRIC. For example, a 27-mile levee and seawall system in Galveston, Texas, will cost \$1.9 billion, while a Army Corps study found that a beach erosion project in Saco, Maine, totals \$27 million.

As they own a significant portion of public infrastructure, local governments are uniquely positioned to reduce the risk of disasters before they occur, decreasing the impact on residents, public health, and safety. To elaborate, counties collectively own 45 percent of America's roads, nearly 40 percent of bridges, and nearly a thousand hospitals. Local governments also own and maintain a wide variety of flood-related infrastructure, including roadside ditches, flood control channels, culverts and pipes, municipal stormwater systems, and other infrastructure that funnels water from low-lying roads, properties, and businesses. Additionally, they manage water recharge areas, green infrastructure projects, and water conservation programs.

The BRIC policy lets local governments apply for BRIC funds through their states as subapplicants, but the policy does not let local governments be applicants and, therefore, receive funding directly from the program. Broadening the BRIC policy to allow for direct funds to local governments would expedite funds to communities and avoid delays at the state level.



Clarify project competition rules (A. 3.c. Project Competition).

Recommendation: FEMA should engage with local government stakeholders, perhaps through listening sessions, as part of the drafting process associated with detailed rules and policies that will govern grant application criteria, evaluation, and awarding considerations. FEMA should also clarify the rules for the project competition within the BRIC policy and produce additional resources, like webinars, for applicants as soon as possible.

FEMA's proposed policy doesn't provide details on project competition funding, for which the remainder of funding will be allocated to eligible applicants for mitigation projects. More information is needed on if direct awards to local governments are allowed through the project competition and what the criteria and scoring for the competition will look like. FEMA must engage stakeholders in developing rules for the project competition and clearly communicate guidance in advance. If states and communities apply for program funds in fall 2020, they need this information immediately to begin planning for projects and compiling application materials.

Provide assistance for updating hazard mitigation plans (B. 5. Hazard Mitigation Plans)

Recommendation: FEMA should change the language in the policy to allow for local governments to use BRIC funds for hazard mitigation planning. FEMA should also exempt local governments from the requirement to have a hazard mitigation plan if the applicant plans to use BRIC funds to develop a hazard mitigation plan.

Under the BRIC program, local governments must have a FEMA-approved hazard mitigation plan. However, some local governments may need grant and technical assistance to update and improve their existing hazard mitigation plans to meet this requirement. FEMA should provide an exemption for local governments seeking to use BRIC funds for hazard mitigation planning to meet the latest best practices and standards. In order to receive BRIC funds, applicants could commit to prioritizing and ensuring a whole community approach to the hazard mitigation planning and project implementation by submitting a plan or description of their approach to FEMA. Technical assistance from FEMA could be part of that package, providing FEMA with oversight and accountability and educating the community on how to update and implement their own hazard mitigation plans in the future.

Prioritize project planning by making it a category of assistance (C. Uses of Assistance)

Recommendation: FEMA should make project planning and design a category under uses of assistance.

FEMA should ensure that planning grants for preliminary engineering studies, vulnerability assessments, and other early-stage project planning activities are eligible projects under the BRIC program. These types of studies are often needed to determine the scope of flood mitigation and flood risk reduction projects and to apply for larger grants. Allowing communities, especially those that are smaller and lower income, to conduct assessments and plan for larger projects will reduce barriers to begin flood mitigation projects. Allowing for phased grants for planning and implementation will also give more communities the opportunity to move forward with projects.

Expand eligible uses of funds (C. Uses of Assistance)

Recommendation: FEMA should expand the uses of assistance listed in the BRIC policy.

In addition to making planning its own category under uses of assistance, FEMA should expand the eligible uses of funds under the program to explicitly list certain activities. While more details will be provided in the Notice of Funding Opportunity, state and local governments must know immediately the



specific activities funded through the BRIC program. FEMA should ensure that natural infrastructure, green infrastructure, and nature-based solutions are eligible under mitigation projects. Hazard mitigation planning and project planning and design must also be listed. Building capacity at the local level should include developing guidance and toolkits, as well as funding training. Predevelopment activities should be listed as eligible under the program—these activities can include hydrology studies, environmental assessments, vulnerability assessments, architectural and engineering studies, market assessments and economic feasibility studies, site/lease acquisition costs, and permitting. State and local governments must know early in the application process that these activities are allowable under the program.

Allow for strengthening of existing resilience projects by changing rules for ground disturbance (D. 1.d. Ground Disturbance)

Recommendation: FEMA should remove the ground disturbance provision entirely from the policy or clarify the specific activities that are not permitted.

Because of FEMA's proposed ground disturbance provision, projects where ground disturbance has already been initiated or completed are not eligible for BRIC funding. This provision severely limits how applicants can use BRIC funds. For instance, it could prevent state and local governments from using BRIC funds to strengthen the resilience of existing projects. Additionally, communities should not be disqualified for conducting early-stage activities, such as clearing the area for surveying, that prepare a site for a resilience project.

Clarify definition and data for resilience to future hazards (D. 2. Capacity and Capability Building)

Recommendation: FEMA should clarify how resilience to natural hazards will be assessed and what information and data needs to be provided.

At the state and local level, the BRIC program strengthens capability and capacity to reduce risk and damage from future natural hazards and increase resiliency and public safety, all while promoting a culture of preparedness. For state and local governments to submit applications under this category of assistance, FEMA must clearly define how it will evaluate resilience to future hazards. Applicants must know in advance the types of studies and assessments needed, as well as the standards used for assessing resilience to future hazards. It is also essential that reducing risk from future natural hazards accounts for changing conditions, including sea level rise and increased precipitation.

Improve and offer an alternative to FEMA's Benefit-Cost Analysis (D. 3.e.ii. Cost Effectiveness)

Recommendation: FEMA must improve the Benefit-Cost Analysis (BCA) to accurately assess nature-based mitigation measures and offer an alternative for smaller and rural communities. FEMA should also consider exempting projects under a set cost or size limit from requiring a BCA.

Under the BRIC program, FEMA's BCA would be the primary qualifier for mitigation projects. However, the BCA tool needs significant improvement, as FEMA's BCA has produced flawed analyses for some projects in the past. Similar to the Public Assistance 406 Mitigation Program, there should be an alternative to FEMA's BCA tool, especially for small and rural communities, which have been particularly affected by flawed analysis. Additionally, FEMA's BCA tool must be updated to fully account for the benefits of natural infrastructure and nature-based solutions.

Provide additional guidance so communities can plan and prepare applications accordingly (E. 5. Application Process Review)



Recommendation: FEMA should provide early additional guidance on annual program priorities, scoring criteria, compliance procedures, and timeline for application reviews so applicants can plan ahead.

While additional details will be provided in the Notice of Funding Opportunity, more consistent guidance from FEMA is needed so state and local governments have enough time to plan and prepare applications. Applicants also need time to ensure that their hazard mitigation projects support their BRIC applications. The projects outlined in the hazard mitigation projects must align with some sort of BRIC criteria when the hazard mitigation plan is updated periodically, as required by FEMA.

Extend timeframe to provide sufficient time for all requirements to be completed for large and complex projects (E. 6. Award POP)

Recommendation: FEMA should reconsider the 36-month timeframe for project completion.

While it's reasonable to set a timeframe or goal for completing a project, the 36-month deadline in FEMA's proposed policy does not provide enough time for grant recipients to complete many larger mitigation projects. Ensuring proper environmental reviews and studies are approved and navigating the permitting process with various federal, state and local entities can often take longer than 36 months. While FEMA may allow for POP extensions, recipients need to know in advance and stakeholders must be involved in developing the implementation materials that detail the criteria for extensions. Instead of requiring recipients of BRIC funds to file for extensions at 36 months, FEMA could approve overall project timelines at the start of a project. If a project must be extended beyond the agreed upon timeframe, the recipient should then notify FEMA to apply for an extension.

Include a time limitation on appeals so applicants receive a timely decision (E. 10.d. Appeals)

Recommendation: FEMA should change the policy to include a requirement that FEMA issue a decision within 90 days of receipt of final appeal documentation.

State and local governments may appeal to FEMA if they believe their application was denied or their grant award was terminated in error. Applicants that file an appeal must receive a decision from FEMA before moving forward with proposed resilience and hazard mitigation planning and projects. Providing clarity on when a decision will be rendered allows states and local governments to budget and plan accordingly. Resilience and hazard mitigation projects cannot afford to wait in limbo, so establishing a reasonable timeframe to deliver appeal decisions can eliminate unnecessary uncertainty and avoid inaction.

We appreciate the opportunity to offer comments on the proposed policy and look forward to working with you on proactive solutions to protect our communities from flooding and sea level rise. If you or your staff have any questions, please do not hesitate to contact our Government Relations Director, Dante Cutrona, at dante@floodcoalition.org or (610) 207-8807.

Sincerely,

A handwritten signature in black ink that reads "Melissa Roberts".

Melissa Roberts
Executive Director