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Regulatory Affairs Division  
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**Submitted via:** *Federal eRulemaking Portal: [http:// www.regulations.gov](http://www.regulations.gov)*

Re: Docket ID FEMA-2019-0018

FEMA Proposed Policy: *Hazard Mitigation Assistance: Building Resilient  
Infrastructure and Communities*

To Whom it May Concern:

Thank you for the opportunity to comment on the proposed policy for the implementation of the Building Resilient Infrastructure and Communities. We strongly support preemptive investment to support pre-disaster hazard mitigation measures. We also commend FEMA for the emphasis placed on “communities” throughout the proposed policy.

We suggest three elements that should be incorporated into the BRIC framework:

First, public participation in the crafting of applicant and subapplicant project proposals and throughout the implementation / execution of each project.

Second, provision of technical assistance to community identified/chosen organizations or entities throughout the entire process, and

Third, that the process reward contractors and participants that engage local small contractors and employ members of the impacted community so that that community will benefit not only to the degree that the project prevents future damage, but also through circulating some of the significant funds into the economy of that community.

We write as members, representatives and advocates for communities. We believe that collaboration with residents and their representative organizations and advocate allies is a critical component of the conceptualization and implementation of the projects envisioned by FEMA under BRIC. We note that the very name of the grant program: “Building

Resilient Infrastructure and Communities” recognized that communities are integral to the development of resilient infrastructure.

The combination of technical expertise and local knowledge and experience can produce constructive and synergistic partnerships. The imposition of a top-down vision, initiated with the best of intention and capacity, that fails to understand or acknowledge the needs and expertise available from the bottom up, invites failure of the core mission and irreparable damage to those most directly impacted. Collaboration with those directly impacted by the placement, scope and objectives of such projects, conversely, invites design and implementation that address both the mitigation of threats and long-term benefits to the subject community.

While FEMA itself operates many of its programs directly, this grant program will be operated by state and local governments, tribes and territories. The projected BRIC projects, therefore, are more similar to programs funded by Transportation or HUD, which are run by participating jurisdictions rather than the direct involvement that FEMA generally exercises. With this administrative disconnect with FEMA, the mandate for non-discrimination and community engagement takes on heightened importance. These anticipated BRIC grantees have long histories and concomitant experience and comfort with engaging their residents and community-based organization in developing and implementing publicly funded projects. And their residents and community-based organizations expect and deserve no less.

Section E of the Proposed Policy rightly mandates that, in compliance with 44 C.F.R. Part 7, *‘Recipients and subrecipients must ensure the BRIC program is accomplished in an equitable and impartial manner, without discrimination on the grounds of race, color, religion, nationality, sex, age, disability, English proficiency, or economic status.’*

Part 7 (§7.5 (b)) provides that: *‘A recipient, in determining the types of services, financial aid, or other benefits, or facilities which will be provided under any such program, or the class of individuals to whom, or the situations in which, such services, financial aid, other benefits, or facilities will be provided under any such program, or the class of individuals to be afforded an opportunity to participate in any such program, may not, directly or through contractual or other arrangements, utilize criteria or methods of administration which have the effect of subjecting individuals to discrimination because of their race, color, or national origin, or have the effect of defeating or substantially impairing accomplishment of the objectives of the program as respect individuals of a particular race, color, or national origin.’*

The recent history of disaster response and recovery across the United States includes striking examples of federally financed programs found to have been administered via discriminatory methods with regard to the class of individuals that benefited or were harmed when conceived and implemented without the structured and effective participation of the impacted communities. Examples include the dereliction of the 9<sup>th</sup> Ward in New Orleans after hurricane Katrina; the failure of the State of Texas to apply recovery funding to rebuild communities occupied by people of color and those of lower income and persons with disabilities after hurricanes Ike and Dolly, even though these storms disproportionately damaged and destroyed those residents’ homes; the consent

decree imposed by HUD on the State of New Jersey after Superstorm Sandy, finding that the state had channeled funds to marginally damage communities favored by the state rather than to the lower-income and non-white communities most heavily damaged by the storm; and the abdication by the Commonwealth of Puerto Rico of its obligation to address the needs of small, non-white and immigrant communities after hurricanes Irma, and Maria and the subsequent earthquakes. In each of these instances, remediatory litigation and advocacy was required to mitigate such discrimination.

The inclusion, in the BRIC Policy, of a mandate for public participation will produce better solutions, solutions that are more accepted by those involved and solutions that meet the requirements of non-discrimination more effectively than a simple reference to the non-discrimination provision of the C.F.R. in a list of administration requirements.

This mandate should include a requirement for publication of draft proposals, opportunity for public comment and at least one public hearing scheduled at a time convenient to the residents and at a place in the impacted community.

Just as the authorizing legislation and the Proposed Policy recognize that grantees can benefit from non-financial technical assistance, the participation of community residents and representative organizations will be enhanced if such assistance is provided.

Our proposal that the Policy contain provisions that reward the engagement of local small contractors and businesses and employment for local residents is quite simply based on a recognition that, for historical reasons, many of the communities that experience repetitive damage, and therefore are candidates for resilient infrastructure and community projects, are lower-income and under resourced. Directing funds, which will be expended in any event in project design and implementation, into these communities, can assist in improving the communities' economic well-being and its ability to address related, mitigatory activities and can provide indirect compensation for economic disruption generated by infrastructure projects.

We appreciate your consideration of our comments.

Sincerely,  
Adam M. Gordon, Esq.  
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