

ENHANCED PORTION

**PART III:
Project Implementation
Capabilities**

**A. Demonstrating Established Eligibility
Criteria for Multi-Hazard Mitigation Measures**

**B. Describing Cost-Effectiveness
Determinations (Consistent with OMB
Circular A-94)**

**C. Describing the System to Rank
Mitigation Measures According to
Established Eligibility Criteria**

**REQUIREMENT
§201.5(B)(2)(i-ii):**

To be “Enhanced,” the Commonwealth of Kentucky must document its project implementation capability, identifying and demonstrating the ability to implement the plan, which includes:

- *Establishing eligibility criteria for multi-hazard mitigation measures;*
- *A system to determine the cost effectiveness of mitigation measures, consistent with OMB Circular A-94, guidelines and Discount Rates for Benefit- Cost Analysis of Federal Programs; and*
- *A system to rank the measures according to the State’s eligibility criteria.*

Hazard Mitigation Grant Program (HMGP) Administration

The Hazard Mitigation Grant Program (HMGP) is administered according to the guidelines of the HMGP State Administrative Plan. FEMA’s Hazard Mitigation Grant Program has typically offered the following programs resulting in grant-types: Hazard Mitigation Grant Program (a.k.a. “disaster funding”), Pre-Disaster Mitigation (PDM) grants, Flood Mitigation Assistance (FMA) grants, and Repetitive Flood Claims (RFC) grants. The details and statuses of these programs have changed since 2010. Please see the “Standard Portion” of this plan for details.

The Hazard Mitigation Grants Program State Administrative Plan is the plan that is updated and submitted to the Federal Emergency Management Agency (FEMA) following a presidentially-declared disaster. The purpose of the HMGP State Administrative Plan is to describe the program and financial management procedures implemented by Kentucky Emergency Management (KYEM) that will administer the Hazard Mitigation Grant Program that is authorized through Section 404 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Public Law 93-288 as amended). KYEM complies with all applicable federal statutes and regulations in effect with respect to the administration of the HMGP as authorized.[44 CFR §13.11(c)].

The KYEM Recovery Branch Mitigation Section is designated to administer the Section 404 HMGP. As specified in 44 CFR §206.436, the Governor’s Authorized Representative (GAR) is the program administrator. Typically, the Governor designates the Director of Kentucky Emergency Management to serve as the GAR. The State

Hazard Mitigation Officer (SHMO), an employee of the KYEM Recovery Branch, is designated to coordinate activities of the Commonwealth of Kentucky State Hazard Mitigation Council (KYMC) and to serve as the responsible individual for project management and administration of the funds. KYMC members are selected either by designated Directors, Commissioners, or Cabinet Secretaries of state agencies, or by heads of non-state agencies that have hazard mitigation expertise and responsibilities. An Executive Order by the Governor or Memorandum of Understanding with KYEM may be used as needed to define the authority and responsibility of team members. The SHMO is assisted in project management and administration of awarded funds by up to seven (7) full-time mitigation specialists and two (2) part-time specialists. These employees work under the supervision of the SHMO.

Dissemination of Available HMGP Funding Information

Because it is critical to a project's success that projects have state and local support and interest, it is imperative that information regarding the Hazard Mitigation Grants Program (HMGP) be disseminated widely using multiple methods to access potential applicants. An announcement letter is sent to potential applicants via e-mail to provide basic information on the application process, program and project eligibility, available funds, and key deadlines. The e-mail also includes an example of a pre-application Mitigation Action Form (MAF). The e-mail is sent to each Emergency Management Area Manager, each Area Development District (ADD) Executive Director or ADD mitigation point of contact, the Kentucky Association of County Officials, and the Kentucky League of Cities for dissemination. In addition, the package is e-mailed to individuals who have previously requested to receive information. The information also is posted on the Kentucky Emergency Management (KYEM) website.

Two (2) distinct types of applicant briefings are conducted by KYEM. The first immediately follows a presidential disaster declaration: The KYEM Recovery Branch delivers applicant briefings in which the main emphasis is on reaching potential applicants to FEMA's Public Assistance (PA) Program. Each of these types of briefings is located in a facility that is easily accessible to 10 to 12 impacted counties. The final briefing of this type is conducted in Frankfort, Kentucky for state agency applicants and for local applicants who were unable to attend the briefing previously held in their locale. While the main focus of these briefings is Public Assistance, a portion of the presentation involves both 404 and 406 mitigation opportunities.

The second type of applicant briefing occurs several weeks later and after disaster recovery activities are well underway. In this type of applicant briefing, the KYEM Mitigation staff provides mitigation-specific applicant briefings. The eleven (11) KYEM Regional Response Managers – who are the local points of contact for emergency management activities and are knowledgeable of the people and issues within their designated areas – are used to disseminate information about the hazard mitigation program. Kentucky's Area Development Districts (ADDs) – which, as described in the Standard Portion of this plan, are the primary link between state and local governments for grant programs and economic development at the local level – also disseminate program information and encourage potential applicants to identify projects.

Project Identification

The “Mitigation Strategy” section of a FEMA-approved Hazard Mitigation Plan is the first source of identification of mitigation issues and potential projects. In Kentucky’s unique case, its mitigation strategies derive primarily from Kentucky’s local multi-jurisdictional hazard mitigation plans. (This is described thoroughly in the Standard Portion of the 2013 update of the Commonwealth of Kentucky’s hazard mitigation plan.) These strategies have been reviewed and prioritized by the participating jurisdictions according to the jurisdictions’ analysis of its risks and vulnerabilities. There is further prioritization at the state/agency level. This process, again, is described exhaustively within the Standard Portion of this 2013 update of Kentucky’s hazard mitigation plan.

Information acquired during preliminary damage assessments is one source for identification of mitigation issues and potential projects. Damage assessment teams are briefed as to the availability and requirements of the Hazard Mitigation Grants Program (HMGP) so that potential projects can be identified for follow-up by the State Hazard Mitigation Officer (SHMO).

Mitigation measures not eligible for funding through the Public Assistance (PA) Program may be eligible for Hazard Mitigation Grant Program funding. The Public Assistance “joint preliminary damage assessment teams” (consisting of federal, state, and local representatives) may also identify broad or comprehensive projects potentially impacting multiple sites.

Interagency Hazard Mitigation Reports from previous disasters are reviewed to identify potential projects for funding. Issues and recommendations of the Interagency Hazard Mitigation Team or the Hazard Mitigation Survey Team are reviewed to identify potential projects.

Potential projects also can be identified during the preparedness phase of emergency management from a variety of sources which may not be apparent until a disaster occurrence or recovery effort is underway. Applicants currently are encouraged to develop projects in Kentucky’s Community Hazard Assessment and Mitigation Planning

NOTE ON: APPLICANTS (“SUB-APPLICANTS”) Vs. GRANTEES (“SUB-GRANTEES”) USED THROUGHOUT ENHANCED PORTION

This Enhanced Portion of the 2013 update of Kentucky’s hazard mitigation plan (as opposed to the Standard Portion) consistently differentiate between Applicant and Grantee and, subsequently, “sub-applicant” and “sub-grantee.”

The difference between being an Applicant (“Sub-Applicant”) and Grantee (“Sub-Grantee”) only involves time related to mitigation project implementation process: An Applicant (“Sub-Applicant”) becomes a Grantee (“Sub-Grantee”) when a mitigation project is awarded funding via a grant, i.e. the grant deriving from the Hazard Mitigation Grant Program (HMGP).

Thus, when this Enhanced Portion alternates between using Applicant (“Sub-Applicant”) and Grantee (“Sub-Grantee”), it is acknowledging this difference in project implementation status.

System (CHAMPS¹) in advance of disaster declarations, so that when funds become available applications will be readily available for submittal to Kentucky Emergency Management (KYEM).

Grant managers also work with sub-applicants statewide to determine mitigation needs and local priorities for potential projects. Sub-applicants are encouraged to submit Mitigation Action Forms (formerly known as Letters of Intent) for all potential projects under HMGP disaster funding or Pre-Disaster Mitigation (PDM) programs as appropriate. Developing potential mitigation projects is an ongoing effort at KYEM. Potential projects detailed in Mitigation Action Forms (MAFs) are assessed by KYEM mitigation staff for eligibility, feasibility, and cost effectiveness before advancing to the application phase.

¹ CHAMPS is elaborated upon in the Standard Portion of the 2013 update of Kentucky's hazard mitigation plan.

HMGP Eligibility for Multi-Hazard Mitigation Measures

To be considered eligible for funding, a project must meet the following minimum criteria:

1. That it comply with federal project requirements as specified in 44 CFR §206.434(c).
2. That it is located in a community participating with good standing in the National Flood Insurance Program (NFIP) if that community is mapped and has an identified special flood hazard area(s).
3. That it meet all applicable federal, state, and local permit and regulatory requirements.
4. That it be cost effective and that it substantially reduce the risk of future damage, hardship, loss, and/or suffering resulting from a major disaster. Further, applicants must provide a comparison of the cost of the project against the anticipated value of future damage reduction by demonstrating and documenting that the project:
 - a. Addresses a problem that has been repetitive or is one that poses a significant risk to lives, health and safety, essential services, critical facilities, or the local economy if left unsolved.
 - b. Does not cost more than the anticipated value of the reduction in damages to the area if future disasters were to occur (i.e. benefits exceed the cost of the proposal). Both costs and benefits shall be computed on a net present value basis.
 - c. Is the most practical, effective, and environmentally-sound alternative after consideration of a range of alternatives and has the greatest potential impact on reducing future disaster losses.
 - d. Contributes to a permanent or long-term solution (to the extent practicable) to the problem it is intended to address.
 - e. Considers long-term changes to the project area and has manageable future maintenance and modification requirements.
 - f. Benefits the community rather than a small number of people and best fits within an overall plan for development or hazard mitigation for the community and the Commonwealth of Kentucky.
 - g. Is consistent with any applicable local- and state-level hazard mitigation plans.
 - h. Solves a problem independently, or constitutes a functional portion of the solution where there is assurance that the project, as a whole, will be completed.

Eligible projects indicate that a determination that the minimum project criteria identified in the HMGP regulations (44 CFR §206.434) have been met. Project proposals within declared disaster areas are given priority; proposals then are selected according to mitigation effectiveness, population served, facilities protected, and Kentucky Hazard Mitigation Council priorities for maximizing available funding. The general system for prioritization is detailed in the Standard Portion of this plan. While the eligibility criteria listed above generally refers to all FEMA grant programs operating under its Hazard Mitigation Grant Program, sub-applicants whose eligible “regular” (read “disaster-funded”) project proposals are not selected for post-disaster funding are encouraged to apply for PDM grant-funding or FEMA’s other cyclical grant programs funding, specifically.

Generally, eligibility criteria has not changed since 2010. The prioritization process detailed in the Standard Portion of *CK-EHMP 2013* has changed, however.

HMGP Project Application Procedures/Selection Process

The Commonwealth of Kentucky notifies FEMA of its intent to participate in the HMGP by specifically including a request for Hazard Mitigation funding in its request to the President for a major disaster declaration [44 CFR §206.436; §206.36(a)].

A Mitigation Action Form (MAF) for a proposed project is submitted to the State Hazard Mitigation Officer (SHMO) within 30 days of the notification of the availability of funds and the request for MAFs by Kentucky Emergency Management (KYEM). All approvals for MAF submission timeframe extensions are at the discretion of the SHMO.

The MAF includes the following:

- a. Geographical and statistical information which describes the applicant's jurisdiction;
- b. A brief description and location of the proposed project;
- c. An approximate cost (if possible to determine) for the proposed project;
- d. Indication of participation with good standing in the National Flood Insurance Program (NFIP); and
- e. Applicability and conformance with a local hazard mitigation plan.

If all required information is not provided, the SHMO may request supplemental information depending upon the scope of the project and timeframe.

Mitigation Action Forms and applications must be submitted by the Applicant's Agent or Chief Executive Officer of the responsible state or local government (city/county/merged governments) or private non-profit organization. The letters and applications are submitted within CHAMPS to the State Hazard Mitigation Officer at KYEM.

After all MAFs for the Hazard Mitigation Grant Program have been received, the State Hazard Mitigation Office reviews them for the preliminary eligibility determination. Then, the Kentucky Mitigation Council (KYMC) meets approximately 30 days after the MAF due date to review and act upon initiative and planning Mitigation Action Forms. If necessary, the council may meet more than once to take action on the proposed projects. The application for HMGP funding should be submitted by the communities recommended for application development by the KYMC within 90 days after notification of the council's recommendation.

During the KYMC selection review process, it is sometimes the case that additional project information is needed by the KYMC or FEMA. The State Hazard Mitigation Officer and mitigation staff are responsible for obtaining the needed information from the Applicant's Agent.

The State Hazard Mitigation Council is responsible for reviewing, ranking, and selecting projects for submission to FEMA for HMGP funding. Each application is reviewed for eligibility in accordance with criteria contained in Section IV (A) & (B) of the State

Administrative Plan, 44 CFR §206.434 and 44 CFR §206.435, and the strategy and criteria contained in the State Hazard Mitigation Plan.

Selection criteria include, but are not limited to:

- Measures that best fit within an overall plan for development or hazard mitigation in the community, disaster area, or within the Commonwealth more generally;
- Measures that, if not taken, will have severe and detrimental impacts on the applicant or “sub-applicant,” including: potential loss of life, loss of essential services, damage to critical facilities, and/or economic hardship on the community;
- Measures that have the greatest potential impact for reducing future disaster losses (44 CFR §206.435 (b))

In addition to the selection criteria noted above, consideration will be given to measures that are designed to accomplish multiple objectives including damage reduction, environmental enhancement, and economic recovery, when appropriate (44 CFR §203.436 (c)).

It is the responsibility of the KYMC to select and prioritize initiative and planning projects to be recommended to FEMA for funding. The State Hazard Mitigation Officer serves as the coordinator and chair of the KYMC. The KYMC also provides technical advice and assistance to the SHMO and applicants in preparing detailed or technical information that may be required by FEMA, and for the administration of the program.

Project applications are reviewed, ranked, and prioritized according to the system articulated in the Standard Portion of the *Commonwealth of Kentucky Enhanced Hazard Mitigation Plan: 2013 Version* in the *Mitigation Strategy* section. Briefly synthesizing: Mitigation Action Forms/potential applications will be placed into separate review categories: Reviews for Acquisitions/Demolitions/Relocations, reviews for education campaigns/initiatives/et al., and reviews for all other types of mitigation actions. Of the latter category (i.e. actions that are not acquisitions et al. and education campaigns et al.), these projects are sub-categorized/ranked into *A-Projects* and *B-Projects*. *A-Projects* are those actions that protect critical facilities. *B-Projects* are those actions that do not protect critical facilities and only protect populations. Within *A-Projects* and *B-Projects*, mitigation actions are further prioritized and ranked according to whether they address “high,” “medium/moderate,” or “low” hazard-type risk as articulated in the local mitigation plan under which the sub-applicant is justifying its submission of mitigation action. Acquisitions et al. and education campaigns et al. are prioritized and ranked only through Benefit-Cost Analysis (BCA).

All project applications are submitted to the Department for Local Government’s (DLG) Kentucky State Clearinghouse for historical and environmental impact reviews. The Kentucky State Clearinghouse has been designated as the state’s Single Point of Contact (SPOC) and is charged with providing state and local input to the appropriate federal agency. At the state level, this task is accomplished by identifying those state

agencies that should be involved in the planning and development of activities by Executive Order (EO) 12372, and providing these agencies with the opportunity to evaluate proposals in a timely and effective manner. All federal applications are subject to the EO 12372 Intergovernmental Review Process unless the application specifically states that it is not subject to EO 12372.

Eligible MAFs for the regular program proceed to the Benefit-Cost Analysis (BCA) and grant application phases. Applications which require a BCA for project approval complete a project-specific Data Documentation Template (DDT) and submit it to the assigned grant manager for analysis. Once a positive (1.0 or higher) Benefit-Cost Ratio is reached, the actual project application process can begin. This process is discussed further below.

Following the reviewing, ranking, and prioritization process by the KYMC and the project selection, each applicant is contacted by the assigned grant manager with results of said reviewing, ranking, and prioritization process. An application can either be reviewed “favorably” or “unfavorably.” Applicants whose applications were reviewed and subsequently ranked/prioritized “unfavorably” according to the selection and prioritization process described in the Standard Portion of this 2013 update of Kentucky’s hazard mitigation plan are classified into two groups: Those whose applications are “suspended” and those whose applications are “denied.” A “suspended” application will be followed with a request to “revise and resubmit.” As the term makes obvious, the sub-applicant has the option to revise the project application addressing the points the reviewer cited that lead to the application being reviewed “unfavorably.” A “denied” application may appeal the decision. If an appeal on an “unfavorably” reviewed and “denied” application is not made, then the application is removed from the selection process. Usually a “denied” application results from the “unfavorable” review primarily citing as reason that the goal and/or objective of a mitigation project is superfluous or irrelevant to the general mitigation goal and objectives of the Commonwealth of Kentucky and/or to specific goals and objectives of the local (multi-jurisdictional) hazard mitigation plan under which the application presumably is justified. All remaining applications are ranked again and accordingly at the end of the appeal period.

If an appeal is made, it is reviewed by a HMGP Appeals Review Board. The board consists of three (3) members (nominated by the State Hazard Mitigation Officer and approved by the Governor’s Authorized Representative) from state, local, and private/non-profit agencies who are not Applicant Agents for the current declaration. One (1) member is appointed from Kentucky Emergency Management (KYEM). The State Hazard Mitigation Officer (SHMO) then serves as coordinator and secretary for the board, but does not have any input into the board’s decisions. Current members of the KYMC are not eligible to serve on the board.

An appeal must be submitted in writing to the SHMO within 15 working days from the date the applicant receives notification of the council's decision regarding review and subsequent ranking and prioritization of an application. Appeals may only address the criteria which were not met by the project application cited as reason for its unfavorable review and subsequent low(er) ranking and prioritization. Applications are not opened for supplemental information unrelated to the reasons the application did not meet the criteria.

Upon receipt of an appeal, the SHMO has 10 working days to prepare it for the HMGP Appeals Review Board. Once received, the board then has 10 working days to review the appeal and conduct an open meeting on the tenth day to review the appeal and make its decisions. An applicant whose appeal is being reviewed will be invited to attend the meeting of the board.

Based on the application and appeal, the board may make one of the following decisions:

- The application should be reviewed, ranked, and prioritized again;
- The application continues to remain “denied” (and, hence, non-eligible for funding) as currently reviewed. Following this decision, a “revise and resubmit” request will be issued: The applicant has 10 working days to revise the application and resubmit to the KYMC.
- The application remains “denied” and non-eligible for funding and cannot be revised. This usually coincides with the application being superfluous to the mitigation priorities of the Commonwealth of Kentucky and/or the local hazard mitigation plan under which the application is presumed to be justified.

Following the meeting of the board, the SHMO makes the adjustments as specified and makes final notifications to applicants.

Submission of Selected Projects to FEMA

The State Hazard Mitigation Officer (SHMO) prepares a project application package for each project selected by the Commonwealth of Kentucky for submission to FEMA. The project application package contains:

- A prioritized list of project titles;
- A cover letter attached to each application identifying the specific mitigation measure for which funding is requested that:
 - describes the anticipated project benefits,
 - provides justification for team recommendations and a rationale for project selection,
 - contains pertinent project management information not included in the Hazard Mitigation Grants Program State Administrative Plan, and
 - provides a certification from the Governor's Authorized Representative (GAR) that the project meets all eligibility requirements of the plan.

Project applications must be submitted to FEMA no later than 365 days following the date of the disaster declaration. The Commonwealth of Kentucky can apply to FEMA for up to two (2) 90-day extensions to the application period.

Upon notification from FEMA of a decision regarding Kentucky's selected projects, the State Hazard Mitigation Officer (SHMO) notifies applicants of FEMA's determinations. If a project was approved, then the implementation process begins with the execution of the Commonwealth of Kentucky PON2 contract. An award briefing is provided for the sub-applicant that discusses among other relevant project-specific topics:

- Quarterly reporting requirements
- Funding/reimbursement requests
- Eligible project costs
- Project cost documentation and administrative procedures
- The Period of Performance
- Close-out

If the sub-applicant's project is suspended by FEMA, then the project's grant manager will supply the reasons for the suspended status and detail to the sub-applicant the supplemental information required for FEMA to proceed with its review.

If the sub-applicant's project is denied by FEMA, then the grant manager will provide the sub-applicant with the reasons the project was denied. Sub-applicants are then informed of the following appeal process:

Appeal Process for FEMA-Denied Project Applications

State Action

- The Governor's Authorized Representative (GAR) may appeal, on behalf of an applicant or the Commonwealth of Kentucky, any FEMA denial of federal assistance.
- The appeal shall be submitted in writing by the sub-applicant (local community) to the SHMO within 45 days after receipt of the notice of the denial from FEMA.
- The State's appeal shall be in writing and submitted to FEMA within 60 days from the date the denial was received from FEMA.

FEMA Regional Administrator

The FEMA Regional Administrator shall review the appeal and notify the GAR within 90 days from the receipt of the appeal.

FEMA Associate Director

- If the appeal is denied by the Regional Administrator, the GAR may appeal to the FEMA Associate Director. This appeal shall be made in writing through the Regional Administrator and shall be submitted no later than 60 days following receipt of the Regional Administrator's denial.
- The Associate Director shall decide on the GAR's appeal within 90 days from the receipt of all related information.
- The Associate Director may refer technical appeals to independent scientific or technical advisors for review.

FEMA Director

- If the appeal is denied by the Associate Director, the GAR may appeal to the FEMA Director. Appeals shall be submitted in writing through the Regional Administrator no later than 60 days after receipt of the Associate Director's denial.
- The Director shall decide on the GAR's appeal within 90 days following receipt of the appeal or shall make a request for supplemental information. Within 90 days following receipt of the supplemental information, the Director shall notify the applicant of the decision.
- The Director may refer technical appeals to independent scientific or technical advisors or to FEMA personnel for review and recommendations. Within 90 days after receipt of the recommendations the Director shall notify the applicant of the decision [44 CFR §206.440 (3(d))].
- If supplemental information is requested by the Regional Administrator, Associate Director, or Director, the applicant shall have 20 working days from the receipt of the request to submit the information to the GAR.

Scope of Work and Completion of an Approved Project

Traditionally, work on an approved project began within 30 days of the executed contract and was to be completed by the Period of Performance date as established by FEMA. From this hazard mitigation plan and presumably onward, this has changed subtly: Work on an approved project still must begin within 30 days of the executed contract; but, there no longer are Period of Performance dates specific to individual projects. A project's Period of Performance coincides with the date that the final project to be funded using money designated for a specific presidentially-declared disaster is approved.

Traditionally, if a time extension was needed, the applicant could request up to a one (1) year extension to the State Hazard Mitigation Officer (SHMO). The State would, in turn, request the extension from FEMA's Regional Director. A second one (1) year extension could be requested through FEMA Headquarters. Whether or not this process for securing an extension on the amount of time a sub-applicant possesses to complete the Scope of Work of a FEMA-approved project is relevant given the new conceptualization of the Period of Performance remains ambiguous.

An eligible HMGP project which is part of a larger undertaking may be declared complete for final federal and state payment if it meets the eligible FEMA Scope of Work (SOW), even if the larger undertaking is not yet complete [CFR §206.438 (d)]. If a project is not completed and there is not adequate justification for non-completion, no federal funding is provided [CFR §206.438 (d)]. There is no Commonwealth funding for non-completed projects if FEMA does not provide funding. Project monitoring identifies and FEMA is notified through Quarterly Tracking Reports of the existence of such projects.

The Commonwealth of Kentucky's Hazard Mitigation office tracks the completion of work using the following tools:

- Quarterly Reports to be sent out for the quarters ending March 31, June 30, September 30, and December 31.
- E-mails, phone calls, and site visits as conducted by the grants manager, Kentucky Emergency Management (KYEM) Regional Managers, KYEM Internal Auditors, and the State Hazard Mitigation Officer (SHMO).
- Internal documents such as the "Project Tracker," "Period of Performance Extension Reminders," "Final Invoice Reminder," and "Individual Project Progress Reports." These are described in the Standard Portion of this 2013 update of Kentucky' hazard mitigation plan in its *Plan Maintenance* section.

Grantees or sub-grantees must obtain prior approval of the State Hazard Mitigation Office and in some cases FEMA, whenever any of the following actions is anticipated [44 CFR §13.30 (d)]:

- Any revision to the Scope of Work (SOW) of the project (regardless if there is an associated budget revision requiring prior approval),
- Any expenditure of funds exceeding the approved project budget,
- A need to extend the Period of Performance,
- Changes in key personnel who were specified in the application or grant award

If a sub-grantee wishes to make modifications to the Scope of Work (SOW) or to the cost of the project, the State Hazard Mitigation Officer (SHMO) submits the revised SOW to FEMA Region IV for determination of eligibility. The request must be made within the application period. Depending on how significant the project modifications are, FEMA's review shall lead to eligibility or denial of the modifications. If denied, the applicant has three (3) options:

1. Proceed with the original eligible project;
2. Withdraw the original project, "de-obligate" project funds, and submit a new project application, if within the allowable application submission window; or
3. Follow the appeal process described above.

Budget revisions which involve the obligation of additional Hazard Mitigation Grants Program (HMGP) funding must be submitted to FEMA for prior approval. Submissions to FEMA are made after the Governor's Authorized Representative (GAR) reviews the proposed modifications and determines them to be justified. Additional HMGP funds may only be obligated if there are enough unobligated funds remaining in the presidential disaster declaration to cover the request.

State and Local Program Administration

A project file is maintained by the State Hazard Mitigation Officer (SHMO) for each project submitted to the Commonwealth of Kentucky. Those applications not completed by the applicant or denied by the State Hazard Mitigation Council (KYMC) or FEMA are maintained in hard copy or in the hazard mitigation program database for possible future use by the local jurisdiction. All Mitigation Action Forms (MAFs) not followed by an application shall also be maintained in the Community Hazard Assessment and Mitigation Planning System (CHAMPS) for future consideration.

In accordance with 44 CFR §13.42, OMB Circular A-102, and OMB Circular A-110, all financial records, supporting documents, statistical records, and all other records pertinent to the eligible project must be retained by the State and applicant for three (3) years after the completion date of the project for purposes of examination and audit. State and local governments may also impose additional record retention and maintenance requirements.

The retention requirement extends to books of original entry, source documents, supporting and supplemental accounting transactions, general ledger, subsidiary ledgers, personnel and payroll records, canceled checks, and related documents and records. Source documents include copies of all agreements, sub-agreements, applications, and financial and narrative reports submitted by the grantee and “sub-grantee.” Personnel and payroll records must include the time and attendance reports for all individuals reimbursed under the project, whether they are employed full-time or part-time. Time and labor reports are required for consultants who are reimbursed.

The three-year retention period begins on the date of the official FEMA close-out letter. Exceptions to the three-year requirement apply to situations such as equipment and real property acquired with federal funds, audits, litigation, claims, negotiations, or other actions involving the records as stipulated in 44 CFR §13.14, OMB A-102, and A-110.

A management system is implemented by the local jurisdiction for the duration of the project (44 CFR §13.20 (b) (2); 44 CFR §13.24 (b) (6); 44 CFR §13.36 (b) (2); CPG 1-.32; page 2-8 (14); OMB A-110, Attachment F). Quarterly Progress Reports must be submitted by the Applicant’s Agent to the State Hazard Mitigation Office beginning at the end of the first full federal fiscal year quarter after FEMA notification of award and continue until project closeout.

The SHMO submits a quarterly Hazard Mitigation Program Tracking Report (“Project Tracker”) on each project to FEMA. The report indicates the status and completion date for each measure funded. Any problems or circumstances affecting completion dates, the approved scope of work or project costs which are expected to result in non-compliance with approved grant conditions, is described in the report. Final inspection of work completed and documentation of costs contain a complete assessment of project accomplishment.

Selection of Applicant's Agent

During development of the HMGP application, the sub-applicant appoints and documents an Applicant Agent to serve as project manager. If a new Applicant Agent is appointed during the eligibility or project implementation process, documentation of the appointment must be submitted to the State Hazard Mitigation Officer (SHMO).

The responsibilities of the Applicant Agent include:

- Monitoring project completion and submission of Quarterly Progress and Financial Reports to the State Hazard Mitigation Office as directed at the time of the grant award;
- Maintaining original financial records, documentation, and receipts necessary to document all expenditures connected with the project (44 CFR §13.20 (b) (1); (14)).
- Ensuring the eligible scope of work approved by FEMA and the State as specified in the project application is completed in accordance with all applicable standards of safety, decency, and sanitation, and in conformity with applicable codes, specifications, laws, regulations, and grant management requirements.

The State Hazard Mitigation Officer's project management responsibilities include:

- Reviewing Quarterly Progress and Financial Reports submitted by "sub-grantees;"
- Monitoring and evaluating project accomplishments and adherence to the approved Scope of Work, work schedule, and program and financial procedures;
- Submitting HMGP funding balance and status reports to FEMA as required;
- Reviewing requests for interim and final payments and making recommendations to the Governor's Authorized Representative (GAR);
- Maintaining the necessary financial documentation and progress reports to support funds disbursed to sub-grantees;
- Reviewing claims, certification of costs, cost overruns, changes in scope, audits, and appeals, and forwarding such information to the GAR;
- Coordinating hazard mitigation project actions with the GAR and FEMA as necessary;
- Providing assistance as required in administering the Hazard Mitigation Grant Program and serving as the coordinator and chair of the State Hazard Mitigation Council;
- Performing any administrative actions necessary for the normal function of the Hazard Mitigation Grant Program; and
- Notifying sub-grantees of actions taken in response to applications.

The Governor's Authorized Representative (GAR) management responsibilities include:

- Overall grant management;
- Providing technical assistance to sub-grantees as necessary;
- Certifying that all claims and costs are eligible and compliant with provisions of the FEMA-State (Commonwealth) Agreement and submit claims to the FEMA Region IV Director;
- Serving as a member of the State Hazard Mitigation Council (KYMC);
- Providing technical, administrative, and financial management advice to the State Hazard Mitigation Officer (SHMO).

Financial Administration

Kentucky Emergency Management (KYEM), as the grantee, provides financial management for all projects in accordance with 44 CFR Part 13. Sub-grantees are accountable to the grantee for funds that are awarded. The funding period as defined in 44 CFR §13.23 is the time period from date of the FEMA award until the end of the Period of Performance.

Sub-grantees must comply with procurement procedures mandated by applicable state and local laws and regulations, provided that the procurements conform to applicable federal laws, regulations, and standards. All procurement transactions are to be conducted in a manner providing full and open competition consistent with the standard in the federal regulations as contained in the Common Rule. Any local public agency may adopt the provisions of the Kentucky Model Procurement Code and no other statutes governing purchasing shall apply upon adoption of the code. If the Model Procurement Code or other procurement code is not adopted, the state's procurement code applies.

General policies for determining allowable costs are established in 44 CFR §13.22, 2 CFR 225 (Cost Principles for State and Local Governments, i.e. Common Rule, Office of Management and Budget), Circular No. A-122 (Cost Principles for Non-Profit Organizations), and CPG 1-32 (Financial Assistance Guidelines, FEMA). Exceptions to those policies are allowed by 44 CFR §13.4 and §13.6.

Generally, sub-grantees must adhere to the Kentucky Prevailing Wage Law if the total project cost exceeds \$250,000. There are no exemptions for a city, county, urban-county government, or school district. It is the responsibility of the sub-applicant to obtain the prevailing wage rates prior to advertising the project for bid. The notification form included in the application is used to receive notification from the Labor Cabinet. After notification of a prevailing wage project, the Labor Cabinet assigns a project number and sends the correct wage rates to the applicants. These rates must be used in the project's budget to calculate the cost of the project.

It is the responsibility of the sub-applicant to ensure that the wage rates are included in the bid documents and are made a part of each contract awarded for the construction of the specific public work. The Applicant's Agent must include in the project's cost documentation that this procedure was followed and that the correct rates were paid.

Interim payments of federal funds can be issued by the Governor's Authorized Representative (GAR) upon recommendation of the State Hazard Mitigation Officer (SHMO) based upon proper completion, proper documentation, eligible work accomplishment, and the need for funds. In the event circumstances warrant, the amount of interim payment requested by the applicant may be adjusted. Such circumstances include the:

- Sub-applicant's history of providing adequate cost documentation for this and other declared disasters;
- Failure to properly complete the eligible scope of work for disaster programs or disaster declarations; and/or
- Need to establish a project reserve fund to cover unforeseen future cash flow problems.

Requests for interim payment of funds with justification and supporting documentation must be submitted in writing to the SHMO. Required documentation consists of the following:

- Master Agreement Invoice;
- Summary of Documentation;
- Daily Activity Reports for labor, equipment, and materials;
- Time sheets showing pay period, employee name, job classification, hours worked each day by application number, total hours worked for the pay period, rate of pay (regular or overtime), total earnings, and paycheck number;
- Canceled checks for materials purchased and contract work;
- Delivery tickets for materials;
- Copy of contract award;
- Invoices and all billing documentation;
- Bid advertisements from news media, website, etc.;
- List of bidders and bid amounts of each;
- If the low bid was not accepted, a statement by chief executive of the jurisdiction as to why; and
- Other documentation required by the SHMO or GAR for proper program administration and also state and federal grant management and audit requirements.

In addition to the required documentation listed above, the following is required for property acquisition and relocation projects:

- Map indicating properties acquired and relocated;
- Documentation of purchase price and other costs associated for each property purchased;
- Specific (by name of owner) addresses of purchased property;
- Deed, containing green space requirement clause, for each property purchased;
- Appraisal for each property purchased, by address;
- Voluntary Transaction Agreement;
- Purchase Closing Worksheet or Settlement Statement for each property; and
- Other documentation deemed necessary by the SHMO and GAR for proper program management and also state and federal audit requirements.

If the request for an interim payment of federal funds is denied, the State Hazard Mitigation Officer (SHMO) notifies the Applicant's Agent in writing of the denial reasons. Additional documentation and explanation to support the request may be requested.

If the request for an interim payment of federal funds is approved, the SHMO reviews and signs the Master Agreement Invoice (MAI) and submits it to the appropriate Kentucky Emergency Management (KYEM) Recovery Branch transaction specialist for processing.

In the event of a documented serious cash flow problem, an interim payment of funds may be made on the basis of unpaid invoices. Except for the requirements of canceled checks, all other documentation must be provided. This type of interim payment is administered based upon invoices. Copies of canceled checks for payments must be provided to the SHMO as soon as they clear the bank. An Advanced Funding Agreement must be signed by the Applicant's Agent and the Governor's Authorized Representative (GAR) before any advanced payments are processed.

Final payment of the federal and state shares is made after project completion when all eligible costs have been determined, documented, and a final inspection of the project has been performed by KYEM. The applicant's claim and completed documentation for reimbursement must be submitted within 60 days of the completion of work. Upon written justification from the sub-applicant, the SHMO may grant an extension of 30 days. Final project closeout will be in compliance with 44 CFR §13.50.

Final federal and state share payments are disbursed in a single sum after final inspection and documentation review by the SHMO as part of the project close-out. Required supporting documentation for final payment is the same as for interim payments.

During project completion and prior to the final payment, the SHMO, KYEM Regional Managers, Internal Auditors, and State Mitigation Staff may inspect the work accomplished or the completed project and review cost documentation. Inspections and reviews determine if all eligible work is accomplished according to the approved scope of work and that all costs are allowable and properly documented. State and federal inspectors and auditors may also document completion as deemed necessary by FEMA, the GAR, and the SHMO.

If the final inspection(s) and documentation review(s) do not indicate any irregularities, the SHMO calculates the final payments based on the federal and state cost shares as specified in the federal regulations, taking into consideration any interim payments made to the applicant.

If interim or final documentation, inspections, or other reviews reveal irregularities in performance of work or documentation, the SHMO coordinates with the sub-applicant to correct the deficiencies. If deficiencies noted by the SHMO are not corrected, interim and final payments are not made. 44 CFR §206.438 (d) states that if a HMGP project is not completed and there is inadequate justification for non-completion, there will be no federal funding for that project. State policy is the same as the federal regulation. The applicant will be required to return any and all interim funding received for the project.

The SHMO (or, generally, designee) may conduct a random number of applicant inspections of completed projects to ensure record-keeping procedures are adequate. The SHMO uses the eligible application, State Administrative Handbook, federal and state grant management regulations and procedures, and standard operating procedures to conduct documentation reviews and to prepare a report for the GAR and project file. The SHMO also briefs the Applicant's Agent of any findings and conducts a follow-up assessment to ensure that required corrective action has occurred.

All federal funds disbursements are made using FEMA Letter of Credit procedures. When the Master Agreement Invoice (MAI) is approved by the Governor's Authorized Representative (GAR) for interim and final payments, the State Hazard Mitigation Officer (SHMO) submits the MAI, eMARS invoice, and Local Match packet to the FEMA Administrative Branch which then draws down funds from the FEMA "SmartLink" Payment System. Payments are made by Electronic Funds Transfer (EFT) to the sub-grantee. A notice of payment is provided to the Applicant's Agent for inclusion in the sub-grantee's project file.

Immediately following a Presidential Disaster Declaration, the Governor's Authorized Representative (GAR) provides the appropriate Kentucky Emergency Management (KYEM) Administrative Branch with a copy of the Governor's request for federal disaster assistance, the Executive Order, and a copy of the President's Disaster Declaration. The KYEM Administrative Branch ensures the establishment of separate accounts for federal and state disaster funds. These funds are accounted by pay-in vouchers and payment documents and maintained by the Administrative Services Accountant and by

project files maintained by the SHMO. The SHMO will ensure sufficient funds are budgeted for grant closeout.

KYEM Administrative Services submits a quarterly report to FEMA on program withdrawals using SF 425 within 90 days after completion of all HMGP projects and completes quarterly PMS 272, Federal Cash Transactions, and Status of Federal Cash Reports, and submits them to the United States Department for Health and Human Services. Copies of Quarterly Reports are provided to the GAR. A separate SF 425 is required for each disaster.

Every effort is made to avoid instances where sub-grantees are paid more funds than can be supported by work completion, inspection, review, or audit. If an excessive interim payment is discovered prior to final payment of the federal and state shares, the GAR would withhold final payment pending corrective actions. If an interim payment exceeds final payment of the federal and state shares due, the GAR requests reimbursement of the balance from the sub-grantee. If the applicant refuses to repay an “over” interim payment, the GAR would then refer the case to the State Controller for initiation of collection efforts. The GAR also informs the SHMO and FEMA of the status of each case of over payment.

During the execution of work on an approved mitigation measure, the GAR may discover that actual project costs exceed the approved estimates. A cost overrun is defined as an unanticipated increase in the cost of performing the specified scope of work as defined in the project grant. When cost overruns occur, the applicant may request approval of additional funding by providing written justification (invoices, daily activity reports, progress reports, etc.) for evaluation by the SHMO and GAR.

All requests, documentation, and responses must be in writing and become part of the sub-grantee’s project file. Sub-grantees must prepare a cost overrun explanation which details the actual costs and work associated with the overruns. Overruns are each considered individually. The SHMO evaluates and prepares a recommendation for consideration by the GAR on each cost overrun. The approved scope of work on any project with a cost overrun must still be met. The request is submitted to FEMA for review and approval. For cost overruns which exceed federal obligated funds and require additional federal funds, the GAR evaluates each cost overrun and submits a request with a recommendation to the Regional Administrator for a determination. The sub-grantee’s justification for additional funding and other pertinent material accompanies the request. FEMA’s Regional Administrator notifies the GAR in writing of the determination and processes a supplement, if necessary. The total amount obligated to the state will never exceed the funding limits of the Stafford Act. Any such problems or circumstances affecting project costs are identified through the aforementioned Quarterly Progress Reports made to the State Hazard Mitigation Officer (SHMO). Cost overruns must be in compliance with 44 CFR §13.30. All requests to change the scope of work must be requested before the change has begun.

Records of projects and funding provided under the Hazard Mitigation Grant Program to state and local governments are subject to the Kentucky Open Records Law (i.e., KRS Chapter 61). A written request for information is reviewed by the Governor's Authorized Representative (GAR). A response is provided within three (3) working days from receipt of the request. Requests must be specific and in writing. Blanket requests for information are not honored. A copy of the original letter of request is sent to the Executive Director of FEMA immediately and the proposed response is forwarded as soon as possible.

When copies of records are requested, a written request describing the records to be copied is required. Kentucky Emergency Management (KYEM) will make copies at a charge of \$0.10 per page. KYEM does not copy records that have not been inspected. Original copies of records are not removed from KYEM facilities. Requests for statistical data or for information which has not been compiled are not honored.

It is the sub-grantee's responsibility to be aware of and comply with OMB Circular A-133 Single Audit requirements. All sub-grantees expending in excess of \$500,000 in federal funds during a fiscal year must provide KYEM with a copy of an OMB Circular A-133 audit. Notice of this requirement is included in the PON2 contract. Recipients have nine (9) months after the close of their fiscal year to complete and submit the audit.

Prior to expiration of the nine (9) month period, a KYEM internal auditor sends a notice to all sub-recipients (sub-grantees and sub-applicants), reminding them of OMB Circular A-133 Single Audit requirements. The notice requests information as to whether the sub-recipient was subject to an OMB Circular A-133 Audit, if there were any findings or anticipated findings, and the estimated completion date for audits in progress. The KYEM internal auditor maintains a tracking report of the above information to ensure sub-recipient notification and proper follow up on audit submission is completed in a timely fashion.

The submitted audit report is reviewed by the KYEM auditor primarily for the following components:

- Schedule of Expenditures of Federal Awards;
- Findings, recommendations, and questioned costs noted in the audit report;
- Inclusion of a corrective action plan for any findings noted in the Audit report detailing the sub-recipient's corrective action plan for cited deficiencies; and
- Schedule of prior audit findings to determine if prior findings have been corrected or carry over to the current audit period

The KYEM auditor will issue a management decision regarding any audit findings within six (6) months after receipt of the audit report and ensure that the sub-grantee takes appropriate timely and corrective action.

After a final site visit has been completed and final payment has been made, a project is ready for project close-out. The Commonwealth of Kentucky project manager will examine the project file and complete the appropriate close-out forms. The package will then be submitted to the State Hazard Mitigation Officer (SHMO) for review.

The Governor's Authorized Representative (GAR) will sign a Request to Close Letter which has been reviewed by both the SHMO and the KYEM Pre-Audit Section prior to submission to FEMA regarding final claim amounts. FEMA will then issue a Final Claim Letter which will serve as the closeout date of the project. This is the final correspondence of the project.

When all projects resulting from a Presidential Disaster Declaration have been completed, all disbursements have been made, all documentation completed, and all audits performed, the SHMO requests, through the GAR, that the grant program be closed. The GAR conducts the necessary reviews of project accomplishment and submits the necessary documentation to FEMA to support the request for closeout. Records will be retained for a period of three (3) years after the date of FEMA program closeout notification.

Establishing Cost Effectiveness for Regular Mitigation Projects

Upon selection of a Mitigation Action Form (MAF) for regular mitigation projects, the next step is to establish cost effectiveness for the project through Benefit-Cost Analysis (BCA) prior to completing and submitting an application to FEMA. Applicants (sub-applicants) are sent a Data Documentation Template (DDT) specific to the project type. The DDT is in an Excel format and required data for the BCA can be easily entered into the cells. A supplemental DDT-completion instruction document accompanies the template, and grant managers, if necessary, offer assistance in gathering relevant data and answering questions regarding the analysis. The documents are transmitted via e-mail. A reasonable deadline is established for the submission of the data to the grant manager. See **Appendix E-3-1** for Data Documentation Templates and their instructions.

Upon receipt of BCA data, grant managers conduct the analyses using (currently) FEMA BCA 4.8 or the most recent version of the software. A detailed methodology is written by the grant manager to accompany the BCA report and BCA file upon submission of the completed application to FEMA.

In addition to data provided in the DDT, sub-applicants provide supporting documentation, which includes justification of cost estimates, relevant maps, photographs of all four (4) sides of the structure(s) and project site(s) as applicable, and documentation of past hazard events. Additional information may also include project-specific documentation such as:

- RE: *Acquisition/Demolition, Acquisition/Relocation, Structural Elevation Projects*
 - Property appraisal and/or Property Valuation Administrator (PVA) records
 - Documentation for “Full Data Analysis²,” which includes:
 - Flood hazard data and flood profiles,
 - Flood Insurance Study and Digital Flood Insurance Rate Maps (DFIRMs),
 - Building Replacement Values,
 - Displacement Costs,
 - Loss of Rents,
 - Values of utilities (if any) in crawlspace or basement.
- RE: *Structural Elevation Projects*
 - Elevation Certificates.
- RE: *Structural Elevation and Detention Basin Projects*
 - Articulation of the number of feet the structure is being raised, or
 - Articulation of the amount of water surface decrease result from elevation.

² A Benefit-Cost Analysis (BCA) using FEMA’s software and methodology can be performed using different “models.” The “models” are differentiated by the amount and type of information that is input into the model. One such model is the “Full Data Analysis” model, which, as its name implies requires the most varied and most (in terms of quantity) data input. The additional information described elsewhere in this section usually is required to comply with certain other types of “models” that provide the most accurate Benefit-Cost Analysis (BCA).

- RE: *Drainage and Detention/Retention Projects*
 - Types of infrastructure for loss of function assessment
 - Number of customers served
 - Number of hours/days of lost service per event
 - Related to roads and bridges: number of one-way traffic trips per day, detour lengths, and time required for detours of traffic
 - Annual budgets for public agencies associated with hazard event damages.

- RE: *Tornado Safe Rooms Projects*
 - Map showing ranges and number of target populations, with structures identified,
 - Distributions of population occupancy over three (3) time periods during a typical day.

Upon completion of the BCA, projects with positive ratios (Benefit-Cost Ratios, or BCRs) of 1.0 or greater are considered cost effective and advance to application. The application process is described in detail in preceding sections.

Additional Considerations Related to Benefit-Cost Analysis (BCA)

The BCA process frequently is stalled due to the lack of local data regarding hazard events. To improve hazard event data records, Kentucky Emergency Management (KYEM) mitigation staff, in each training, presentation, and briefing event, includes a detailed section on the BCA process, emphasizing the importance of ongoing data archiving at the local level. This is an example of *deductive planning* described in the Standard Portion of this 2013 update of Kentucky's hazard mitigation plan.

Technical assistance for a BCA may be requested by any jurisdiction statewide at any time and KYEM mitigation staff is available to assist with these processes. Additionally, a two-day BCA training session was provided by FEMA for interested parties statewide in 2012 which included 15 participants from various communities and agencies. KYEM has received overwhelmingly positive feedback from its mitigation partners across the Commonwealth regarding enhanced efforts to provide education and assistance on FEMA's BCA process during this cycle of the plan.

**A Note on Changes to
Enhanced Portion of the
Commonwealth of Kentucky Enhanced Hazard Mitigation Plan: 2013 Version from
the 2010 Update of Kentucky's Hazard Mitigation Plan**

The major innovation regarding the Project Implementation Capability of Kentucky and Kentucky Emergency Management concerns project selection: As elaborated upon in the Standard Portion of *The Commonwealth of Kentucky Enhanced Hazard Mitigation Plan: 2013 Version*, the Commonwealth of Kentucky has devised a project selection mechanism that prioritizes projects based upon whether or not they protect critical facilities and based upon their relevance to individual local hazard mitigation plans.

This represents a change from what had been a less systematic (though no less rigorous) project selection process implemented before. The mechanism developed for 2013 also allows project selection at the state-/agency-level to coincide with project selection mechanisms at the federal level: Kentucky now has a systematic way of ranking and prioritization that allows it to present “favorable” and “unfavorable” reviews and allow it to “suspend” or “deny” “unfavorably-reviewed” applications much as FEMA will “suspend” or “deny” state-approved project applications sent to it.