ENHANCED PORTION

PART VI: Effective Use of Available Mitigation Funding

REQUIREMENT §201.5(B)(3):

The Commonwealth of Kentucky must demonstrate that it effectively uses existing mitigation programs to achieve its mitigation goals.

A. *Documenting That the Commonwealth of Kentucky Has Made Full Use of Funding Available from FEMA Mitigation Grant Programs*

The Commonwealth of Kentucky concludes that it has, indeed, made full use of funding available from FEMA mitigation grant programs. It supports this conclusion primarily using two (2) reasons: 1) That the exception proves the rule, and, 2) that the Commonwealth of Kentucky habitually "over-submits" applications for available funding under FEMA mitigation grant programs.

The Exception Proves the Rule

The "rule" is that the Commonwealth of Kentucky has made full use of funding available to it from FEMA mitigation grant programs. One way to support this claim is to show the "rule's" negative: That the Commonwealth of Kentucky has used significant levels of funding for mitigation projects that *do not* derive from FEMA mitigation grant programs. The premises are: a) FEMA grant programs are the primary source of mitigation activity funding in the Commonwealth of Kentucky, and b) that there is *so much* mitigation activity throughout the Commonwealth of Kentucky that FEMA mitigation grant programs *are not able* to address it all. Thus, the exceptions (those projects *not funded* by FEMA mitigation grant programs) prove the "rule" that the Commonwealth of Kentucky has to have made full use of funding available from FEMA mitigation grant programs: FEMA could not provide Kentucky with enough funds! Below is the argument visually:

Conclusion:
The Commonwealth of Kentucky has made full use of funding available to it from FEMA mitigation grant programs.

Reason 1, Premise a:
The Commonwealth of Kentucky turns first and primarily to FEMA mitigation grant programs for the funding of its mitigation activity.

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Reason 1, Premise b:
Mitigation activity occurs to such an extent within the Commonwealth of Kentucky that FEMA grant programs cannot provide funding for it all.

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Reason 1, Premise c:
That the primary source of funding for mitigation activity (FEMA mitigation grant programs) cannot fund all of the mitigation activity that takes place in the Commonwealth of Kentucky leads to the conclusion that the Commonwealth of Kentucky has made full use of funding available to it from FEMA mitigation grant programs.

The Commonwealth of Kentucky, then, provides the following “exceptions”:

1) Between 2010 and 2012, Kentucky’s Office of Homeland Security (KOHS) funded $680,750 worth of mitigation activity. ***Appendix E-6-1*** details the mitigation projects funded by KOHS.

2) Between 2011 and 2012, Kentucky’s Department of Local Government (DLG) funded nearly $16 million[1] in mitigation activity. ***Appendix E-6-2*** details the mitigation projects funded by DLG.

3) Between 2010 and 2012, Kentucky’s Division of Forestry (KDF) funded close to a half of one million dollars[2] in wildfire- and fire-related mitigation activity directed toward Kentucky community fire departments. ***Appendix E-6-3*** details to which fire departments in which communities and to what amounts specifically KDF-funded fire-related mitigation activities.

4) Likely one of the better examples of the “exception proving the rule” argument discussed above involves the City of Hopkinsville in Christian County, Kentucky (a member of the Pennyrile Area Development District). The city focuses to such an extent on drainage-related mitigation activity that it would have to add its own local financing to any financing that could be done through the federal government via FEMA hazard mitigation grant programs. Throughout the Commonwealth of Kentucky’s 2010 – 2013 planning cycle, then, the City of Hopkinsville has locally financed 333 separate drainage projects. In 2010, 104 of these drainage projects were locally financed at a total cost of $51,765. In 2011, a further 160 drainage projects were locally financed at a total cost of $108,020. Another 69 drainage projects were financed by the City of Hopkinsville (totaling $120,731) in 2012 and 2013. The 333 total drainage projects locally financed by the City of Hopkinsville during the 2010 – 2013 statewide planning cycle does not tell the whole story, however: The 333 drainage projects were locally financed *on top of* a major, three-phase drainage project involving three drainage basins within Hopkinsville’s Woodmont Watershed that, so far, has resulted in over $1.9 million in citywide investment!

[1] $15,729,155 precisely
[2] $417,822 precisely

5) The Louisville Metropolitan Sewer District (Louisville MSD) in Jefferson County (and a member of the Kentuckiana Regional Planning and Development Agency, a.k.a. KIPDA), from 2010 to 2012, had locally financed over $13.5 million[3] in mitigation activity beyond the significant funding that it received from FEMA mitigation grant programs. ***Appendix E-6-4*** lists the mitigation projects that have been locally financed by Louisville MSD.

6) The Lexington-Fayette Urban County Government (LFUCG) (a member of the Bluegrass Area Development District) has locally financed close to $4 million[4] in storm-water improvement projects between 2010 and 2012. A further approximate $2.5 million[5] was locally invested though LFUCG's Division of Engineering toward eleven (11) more sanitary sewer and storm-water facility construction mitigation projects between the same years. Like the City of Hopkinsville, LFUCG's local commitment to strictly storm-water- and sanitary sewer-related mitigation projects reflects a demand for mitigation activity that exceeds the supply of funding that could derive from federal (i.e. FEMA) mitigation grant programs. This pronounced demand for mitigation activity must derive funding *beyond* the maximum that FEMA mitigation grant programs could provide is further evidenced with the success that LFUCG consistently has had in applying for and being awarded FEMA mitigation grant program funds. ***Appendix E-6-5*** lists the storm-water- and sanitary sewer-related mitigation projects locally financed by LFUCG.

[3] $13,517,405 precisely
[4] $3,995,300 precisely
[5] $2,436,810 precisely

“Over-Submission”

Another way to argue that it has effectively used available mitigation funding is to argue that the Commonwealth of Kentucky generally “does not leave money on the table.” Granted, the term “leaving money on the table” applies to negotiation: If one purchases for $100 what he or she could have purchased for $80, then $20 is “left on the table.” But a looser interpretation of the idiom applies here: The Commonwealth of the Kentucky not only applies for the funding *available* from FEMA hazard mitigation programs. This would be analogous to accepting the “price” FEMA (in this case) stipulated without negotiation, thus potentially “leaving money on the table.” However, the Commonwealth of Kentucky “negotiates.” “Negotiation” simply is a means by which one ensures that he or she is receiving the minimum price (and, conversely, the maximum value) for a product in a given situation. The “product” here is FEMA grant funding to be targeted toward mitigation. And the Commonwealth of Kentucky attempts to ensure that it receives the “maximum value” in FEMA grant funding to be targeted toward mitigation by applying *beyond* the funding available from FEMA. This is termed “over-submission.” And, very loosely, it is a form of “negotiation”: Allowing FEMA to take away funding because applications were limited to the amount that FEMA was offering to finance mitigation activity throughout the Commonwealth is akin to paying more, or paying a higher price for, the mitigation activity toward which FEMA is offering funding. It is “leaving money on the table.” So, generally, the Commonwealth of Kentucky “over-submits” mitigation projects (or, in essence, asks for more than what is being offered) with the intention that should a mitigation project intended to be funded through FEMA grant programs is denied or must be withdrawn, Kentucky still is attempting to ensure that it maximizes the amount of funding being offered.

Throughout this 2010 – 2013 planning cycle (with one exception), the Commonwealth of Kentucky consistently has “over-submitted” eligible mitigation projects for funding from FEMA’s Hazard Mitigation Grant Program in order to ensure (“negotiate”) the maximum value of project funding being offered by FEMA.

FEMA’s Hazard Mitigation Grant Program (HMGP) is available to local jurisdictions after a disaster that has befallen a state is deemed severe enough to warrant a “presidential declaration.” The now “presidentially-declared disaster” is assigned a four-digit number. Once the Individual Assistance and Public Assistance for the jurisdictions directly affected by the presidentially-declared disaster has been addressed, FEMA’s HMGP goes into effect: FEMA offers a predetermined amount of funding toward which *all* local jurisdictions – regardless of whether they were directly affected by the presidentially-declared disaster under which the HMGP is offered – can apply to be used toward hazard mitigation activity that is intended to protect against the ruinous effects of *future* disasters, wherever they may occur throughout the Commonwealth of Kentucky.

The amount offered by FEMA for each HMGP that coincides with a presidentially-declared disaster is termed the “lock-in amount.”

During Kentucky's 2010 – 2013 planning cycle, it suffered from five (5) presidentially-declared disasters. They were numbered by FEMA, in chronological order by date of declaration, as DR-1912, DR-1925, DR-1976, DR-4008, and DR-4057[6]. Tabulated below is a list of Kentucky's 2010 – 2013 disaster declarations, followed by the date each was "declared," the number of counties affected (includes any county eligible for either or both Public and/or Individual Assistance), and the "lock-in amounts" offered by FEMA that represent the maximum amount of funding for which all local jurisdictions within the Commonwealth of Kentucky could apply under FEMA's Hazard Mitigation Grant Program:

Table E-6-1: Disaster "Declarations" and "Lock-In Amounts" for 2010-2013 Hazard Events

Declared Disaster (DR)	*Date "Declared"*	*Number of Kentucky Counties Affected*	*"Lock-In Amount"*
1912	May 11, 2010	83	$9,884,338
1925	July 23, 2010	8	$4,118,251
1976	May 4, 2011	79	$8,319,661
4008	July 25, 2011	7	$1,498,346
4057	March 6, 2012	23	$5,363,974

[6] There is an important, yet tangential, consideration to be made here: While five (5) disasters were "presidentially-declared" during Kentucky's 2010 – 2013 planning cycle, the first disaster in the list (DR-1912) occurred early enough in 2010 (May 11, 2010) to have been included in some relevant parts of Kentucky's 2010 update of its hazard mitigation plan (e.g. its Loss Avoidance reports). Thus, this 2013 update of Kentucky's hazard mitigation plan focuses on DR-1925 to DR-4057 for most elements of this hazard mitigation plan. However, DR-1912 should be included within the 2010 – 2013 planning cycle for arguments such as this one: While DR-1912 and its effects could be used as data points for Loss Avoidance studies and the like, the Commonwealth of Kentucky's 2010 update of its hazard mitigation plan would have had to have been approved and adopted (i.e. its 2007 update would have lapsed) before projects submitted under the HMGP program under DR-1912 would have been eligible.

Having seen what was the maximum amount that FEMA could offer through its HMGP program, following is tabulated the 2010 – 2013 disaster declaration accompanied by FEMA's HMGP "Lock-In Amount" and the total amount of funding requested by the Commonwealth of Kentucky by "over-submitting" project applications. The total number presented represents *all* projects submitted under each disaster-declared HMGP program. This means that projects whose current official status either is "denied," or "withdrawn," or "pending approval," "approved," or "closed out" is rightfully included:

Table E-6-2: Amounts and Percentages of "Over-Submission"

Declared Disaster (DR)	*"Lock-In Amount" (I)*	*Amount Requested by Kentucky Via "Over-Submission" (II)*	*"Over-Submission" Amount (II – I)*	*Percentage (%) "Over-Submitted" [((II/I) – 1) x 100]*
1912	$9,884,338	$11,112,666	$1,228,328	12.4%
1925	$4,118,251	$4,927,600	$809,349	19.7%
1976	$8,319,661	$10,522,102	$2,202,441	26.5%
4008	$1,498,346	$1,821,624	$323,278	21.6%
4057	$5,363,974	$5,460,072[7]	$96,098	17.9%
Totals	$29,184,570	$33,844,064	$4,659,494	19.6%

[7] This amount requested under DR-4057 represents the inclusion of *attempts at* over-submission: Three (3) projects (for the City of Paintsville in Johnson County, Kentucky) were approved by Kentucky Emergency Management for attempted submittal to FEMA under DR-4057. These three (3) projects later would be withdrawn from consideration, however: They could not pass a Benefit-Cost Analysis (BCA). Still, the point of this argument is to show that Kentucky has a habit of "over-submitting." Thus, these three (3) projects should be considered. It was only by circumstance that they were not officially submitted: Had the three (3) Johnson County/Paintsville projects passed its BCA, they would have been included as officially submitted to FEMA. The three (3) Johnson County/Paintsville projects attempted to have approved $900,000 collectively ($187,000; $370,000; and $343,000, individually.)

If these three (3) projects are not included, the table showing amounts and percentages of "over-submission" looks like this:

Declared Disaster (DR)	*"Lock-In Amount" (I)*	*Amount Requested by Kentucky Via "Over-Submission" (II)*	*"Over-Submission" Amount (II – I)*	*Percentage (%) "Over-Submitted" [1 - (II/I) x 100]*
1912	$9,884,338	$11,112,666	$1,228,328	12.4%
1925	$4,118,251	$4,927,600	$809,349	19.7%
1976	$8,319,661	$10,522,102	$2,202,441	26.5%
4008	$1,498,346	$1,821,624	$323,278	21.6%
4057	$5,363,974	$4,560,072	($803,902)	(15%)
Totals	$29,184,570	$32,944,064	$3,759,494	12.9%

Of course, the following interpretation results: The Commonwealth of Kentucky only was able to submit up to 85% (100% – 15%) of what was available from the FEMA HMG Program under the DR-4057 disaster declaration.

Thus, from 2010 to 2013, FEMA offered the Commonwealth of Kentucky over $29 million dollars toward which its local jurisdictions could apply to fund eligible mitigation activity. And from 2010 to 2013, the Commonwealth of Kentucky submitted applications for FEMA Hazard Mitigation Grant Program funding totaling over $33 million. This represented close to an average and overall 20% "over-submission" rate for Kentucky's entire 2010 – 2013 planning cycle. This implies that close to 20% of Kentucky's submitted projects could have been (or still could be[8]) "withdrawn" or "denied" and it still would have maximized (i.e. made full use of) available hazard mitigation grant program funding from FEMA[9].

"Over-Submission" Addendum: "406" Mitigation Opportunities

For a more general audience, FEMA's "406" mitigation program will be discussed in detail in the following section, i.e. in talking about Kentucky's commitment to a comprehensive hazard mitigation program. However, it should be noted here that in the spirit of "over-submission" in order to effectively use available mitigation funding, from 2011, Kentucky Emergency Management (KYEM) has formalized administrative policy that requires that all projects assessed for Public Assistance (PA) purposes also be assessed for eligibility to FEMA's "406" mitigation program. In taking advantage of this administrative economy-of-scale, Kentucky (via KYEM) has successfully had funded an additional $420,283.62 in mitigation projects that had fallen into the FEMA "406" mitigation category. The fact that had not KYEM implemented its administrative policy to formalize assessment of potential Public Assistance projects for FEMA "406" mitigation project eligibility this extra $420,284 likely would not have been funded represents an "over-submission" of sorts for Public Assistance (PA) funding that resulted in additional hazard mitigation projects.

In other words, in order to effectively use available mitigation funding, the Commonwealth of Kentucky not only "over-submitted" under FEMA's Hazard Mitigation Grant Program (HMGP), but – de facto – "over-submitted" and used Kentucky's and FEMA's Public Assistance (PA) program to provide funding for additional hazard mitigation projects.

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[8] The project approval process can be a long one: Certainly not all projects submitted under DR-1912 through DR-4076 maintain a decisive status.

[9] To further argue that the Commonwealth of Kentucky possesses a "trend" in "over-submitting" eligible project applications under FEMA's Hazard Mitigation Grant Program and using only self-reporting from Quarterly Reports, one can find that the 2010 – 2013 tendency of Kentucky to "over-submit" is a continuation of a similar tendency recognizable during Kentucky's 2007 – 2010 planning cycle: Five (5) mitigation project applications, totaling $8,171,868, were "over-submissions" under HMG Program opportunities offered under disasters that affected Kentucky during its 2007 – 2010 planning cycle. These five (5) mitigation projects (and over $8 million) all were withdrawn from 2007 – 2010 disaster-funded HMGP grants to the grant that was offered under DR-1912, declared in early May of 2010. The details are tabulated below:

Disaster and Project Number Under Which "Over-Submitted" Project Applied (DR-)	*County from Which Project Application Derived*	*Type of Project for Which Applied*	*Budget for Which Project Applied*	*Project Withdrawn and Submitted to Which 2010 – 2013 Disaster (DR-)*
1841-0008	Allen County	Safe Room	$73,978	1912
1855-0009	Jefferson County	Acquisition	$3,180,886	1912
1855-0017	Whitley County	Safe Room	$196,706	1912
1855-0021	Jefferson County	Acquisition	$3,760,908	1912
1855-0022	Jefferson County	Acquisition	$959,390	1912

Conclusion

The conclusion that the Commonwealth of Kentucky effectively used available mitigation funds was supported by, first, assuming that FEMA mitigation programs are the cardinal means by which mitigation activity is funded throughout the state, and, secondly, by showing that demand for mitigation activity was to such an extent that other agencies and local jurisdictions also invested significantly in mitigation activity.

Thirdly, one FEMA mitigation program was analyzed in detail: FEMA's Hazard Mitigation Grant Program (HMGP). It was shown that throughout Kentucky's 2010 – 2013 planning cycle, Kentucky showed its tendency to ensure maximization of available FEMA funding by "over-submitting" eligible project applications as insurance against the occasional-yet-inevitable withdrawal or denial of a project application. Further, it was argued through a footnote that this tendency for "over-submission" is not a new habit, i.e. a habit seen uniquely throughout this planning cycle. Rather, through over $8 million in "over-submitted" mitigation activity (mostly acquisitions) self-reported through quarterly reports for mitigation project application submissions under HMGP programs funding disasters that occurred in Kentucky during its 2007 – 2010 planning cycle, it is implied that Kentucky's tendency to "over-submit" and, hence, to make effective, full use of FEMA mitigation program funds, is indeed a habitual behavior that can be expected to continue in its future planning cycles.

Having used FEMA's Hazard Mitigation Grant Program to argue habitual behavior in favor of effective, full use of FEMA mitigation grant funding, it is expected that such behavior can be extrapolated and generalized toward FEMA's other offered (and cyclical) mitigation grant programs: The Pre-Disaster Mitigation (PDM), the Flood Mitigation Assistance (FMA) and its (now) accompanying Repetitive-Loss (RL) and Severe Repetitive-Loss Properties (SRL) grant programs. Such an extrapolation does not represent any illogical leap or jump to conclusion: For example, though FEMA's PDM program has only recently been re-established after being indefinitely discontinued from 2012 through 2013, the Commonwealth of Kentucky was able to fund most of its local hazard mitigation plans and a few mitigation projects under the program during Kentucky's 2010 – 2013 planning cycle. This would represent an effective and full use of PDM funding (when available). Further, with the re-establishment of the PDM program effective as of July 12, 2013, Kentucky currently is applying for the full amount of fiscal-year 2013 PDM funding due at the end of September of this year: Kentucky will attempt to fund four to five (4 to5) local hazard mitigation plans that are due for update (during their five-year planning cycles) relatively soon.

B. ***Documenting How the Commonwealth of Kentucky Is Effectively Using Existing Programs to Achieve Its Mitigation Goals***

The conclusion, argument, and evidence provided above to address "Element A." applies here, as well: By documenting and providing evidence that the Commonwealth of Kentucky has made effective and full use of FEMA's hazard mitigation grant funding it is also documenting and providing evidence toward its effective use of FEMA's existing grant programs as it is from these programs that FEMA mitigation funding derives.

However, as additional evidence to justify the overall conclusion that the Commonwealth of Kentucky has effectively and fully used available mitigation funding from FEMA, this Enhanced Portion of the *Commonwealth of Kentucky Enhanced Hazard Mitigation Plan: 2013 Version* refers to the section following this one (i.e. Part VII: "Commitment to a Comprehensive Mitigation Program"). In this section and appended via ***Appendix E-7-6*** is a discussion and elaboration upon the Commonwealth of Kentucky's presumed effective and full use of FEMA's "406" mitigation program.

Referring to the brief discussion of FEMA's "406" mitigation program above and foreshadowing the discussion to follow, the Commonwealth of Kentucky generally has effectively used the existing FEMA "406" mitigation program to achieve its mitigation goals. Of note and specifically, since 2011, Kentucky Emergency Management (KYEM) as formal administrative policy mandated of its relevant staff that all potential projects assessed for Public Assistance (PA) purposes also be assessed for eligibility for "406" mitigation funding. As mentioned above, this recent practice during the Commonwealth's 2010-2013 planning cycle has resulted already in a near 10% increase in public assistance funding: Since the policy's formalization, 284 Public Assistance projects have been written, of which $420,283.62 of the total value of those 284 projects consisted of FEMA "406" mitigation additions[10]. This $420,284 in project value represents 9.84% of the total value of all Public Assistance projects written since 2011 and the formalization of administrative policy. This implies that, had not KYEM formalized this policy, that $420,284 would not have been assessed. Thus the argument: Kentucky (through KYEM) effectively uses FEMA's existing "406" mitigation program to achieve its mitigation goals.

[10] See ***Appendix E-7-7***.