

LIST THE DISASTER MITIGATION ACT OF 2000 – FACT SHEET

General Information

- The Disaster Mitigation Act of 2000 (DMA 2000) was signed by the President (Public Law 106-390) on October 30, 2000 and was intended to facilitate cooperation between state and local authorities. Section 322 of the Act specifically addresses mitigation planning at the state and local levels; reinforces the importance of pre-disaster mitigation planning; and promotes sustainability as a strategy for disaster resistance.

Note: In the specific context of this Act and generally accepted emergency management terminology, the phrase “pre-disaster mitigation planning” is defined as the “coordination of actions taken prior to a hazard event to reduce injuries, deaths, property damage, economic losses, and degradation of natural resources during and following natural or manmade hazard events”. Recommendations resulting from pre-disaster mitigation planning are typically focused on physical projects that reduce risk from specific hazards but can also include changes in land development regulations such as zoning and building codes as well as public education programs.

- To implement the DMA 2000 requirements, FEMA prepared an Interim Final Rule, published in the Federal Register on February 26, 2002 (at 44 CFR Parts 201 and 206), which established planning and funding criteria for states, tribes, and local governments.

State Hazard Mitigation Planning

- DMA 2000 established a pre-disaster mitigation program and required that a FEMA approved **standard state hazard mitigation plan** be in place by November 1, 2004 for a state to continue to be eligible to receive Hazard Mitigation Grant Program (HMGP) funding or Public Assistance (PA) under the recovery categories of the Stafford Act for disasters declared after November 1, 2004.
- DMA 2000 also identifies new requirements that allow HMGP funds to be used for planning activities and increases the amount of HMGP funds available to states that have developed and received FEMA approval of a comprehensive **enhanced state hazard mitigation plan** prior to the declaration of a disaster from a maximum of 7½ percent up to a maximum of 20 percent of the total disaster declaration funding.
- State governments have certain responsibilities for implementing Section 322, including:
 - preparing and submitting a “standard plan” (preparing and submitting an “enhanced plan” is an option);
 - reviewing and updating the state mitigation plan every three years;
 - providing technical assistance and training to local governments to assist them in applying for HMGP grants; and
 - supporting the development of local hazard mitigation plans.

Local Hazard Mitigation Planning

- DMA 2000 also required that individual communities have an approved **local hazard mitigation plan** in place to be eligible for project grants under HMGP for disasters declared after November 1, 2004 and other grant programs such as the Pre-Disaster Mitigation Program (PDM).
- “Communities” as defined in DMA 2000 local mitigation plan requirements typically include counties, local municipalities and tribal governments, but can also include other local agencies and organizations (school systems, transportation authorities, public utilities, etc.) that can participate as a subapplicant or subgrantee to their respective states.
- A local mitigation plan can apply to a single jurisdiction or multiple jurisdictions within a county, watershed, regional planning district, etc. as long as each jurisdiction participated in

the planning process. These plans are referred to as “multi-jurisdictional” pre-disaster mitigation plans.

- Local governments have certain responsibilities for implementing Section 322, including:
 - preparing and submitting a local plan;
 - monitoring projects; and
 - reviewing and updating the mitigation plan every five years.

LOCAL PLAN REVIEW PROCEDURES

Terminology

- *Crosswalk* – The *Local Hazard Mitigation Plan Review Crosswalk* developed from the *Rule* and listing all the requirements/elements that *shall/should* be included the plan.
- *Requirements* – Wording quoted directly from the *Rule*, all of which must be successfully addressed for the *Plan* to be approved.
- *Elements* – Questions that break down the *Requirements* into component parts, all of which must be successfully addressed in the plan for the *Requirement* to be approved.
- *Shall* – *Rule Requirements* that must be addressed in the plan. Revisions that are indicated for these items are considered as *Required Revisions*.
- *Must = Shall*
- *Should* – *Rule Requirements* that are encouraged to be addressed in the plan but not required. Revisions that are indicated for these items are considered as *Recommended Revisions*.

DMA 2000 Local Plan Review

1. Page 1 of the *Crosswalk* should be completed to the best of your ability with information provided in the plan or obtained from the community or State (including NFIP Participation information on page 1). Each Region may have their own ways for adding names, titles and dates in the middle of page 1 so check with the responsible party.
2. Starting on Page 3 of the *Crosswalk*, skim through the whole plan (or one of the major divisions of the plan – i.e., Prerequisite(s) / Planning Process / Risk Assessment / Mitigation Strategies / Plan Maintenance Process) to quickly determine if the *Elements* listed in the *Crosswalk* are addressed or included in some way in the document. As you go through this first pass at reading the plan, you should complete the second column ("Location in the Plan") of the *Crosswalk* for each *Element / Requirement* so you can easily find it again.
3. Next, go back and determine if the passage(s) you located in your first pass through the plan fully addresses the questions posed under each *Element*.
4. If the answer is **yes**, score that element with an 'S' for *Satisfactory* (or *Met* for the Prerequisites). To the extent practical, you can add comments regarding how you felt the plan met each individual element receiving a 'S' score (see the example at the bottom of the instructions page for the *Crosswalk* in the *Reference Manual*).
5. If the answer is **no**, score that element with an 'N' for *Needs Improvement* (or *Not Met* for the Prerequisites). For each 'N' score, you must (shall!) provide comment(s). comments need to provide clear guidance to communities

regarding the specific improvements they need to make to their plans. We recommend that you first provide a brief summary of what you feel the deficiency is and then provide a succinct description of what revisions are needed to bring this element into compliance. See the example at the bottom of the instructions page for the *Crosswalk* in the *Reference Manual*.

6. For “*shall*” items, the revisions are listed as either *Required* or *Recommended Revisions*. For “*should*” items, the revisions can only be listed as *Recommended Revisions*.
7. In all cases, it is encouraged to provide recommendations and suggestions for how to improve the plan and/or subsequent updates. However, this type of comment needs to be always clearly identified as *Recommended Revisions*.
8. For each *Requirement*, determine if any of the *Elements* received an ‘N’ score. If so, the *Requirement* also receives an ‘N’ which is indicated in the Summary Score box at the end of each *Requirement* and also on Page 2 of the *Crosswalk*.
9. For the plan to be approved, all of the *Requirements* must be either *Met* or ‘S’ (with the exception of the three “*should*” *Requirements* indicated in gray shading under *Risk Assessment*).

REFERENCES

Disaster Mitigation Act of 2000

Disaster Mitigation Act of 2000 (Public Law 106-390)

Interim Final Rule (44 CFR Part 201)

Multi-Hazard Mitigation Planning Guidance (formerly known as Interim Guidance)

Local Multi-Hazard Mitigation Planning Guidance (July 2008)

Hazard Identification and Risk Assessment

Multi-Hazard Identification and Risk Assessment
(http://www.fema.gov/fhm/ft_mhira.shtm)

Natural and ManMade Hazard Mitigation Planning

State and Local Mitigation Planning How to Guides:

- ✓ *Getting Started* (FEMA 386-1)
- ✓ *Understanding Your Risks* (FEMA 386-2)
- ✓ *Developing the Mitigation Plan* (FEMA 386-3)
- ✓ *Bringing the Plan to Life* (FEMA 386-4)
- ✓ *Integrating ManMade Hazards with Mitigation Planning* (FEMA 386-7)

(<http://www.fema.gov/fima/planhowto.shtm>)

PLANNING GUIDANCE

The updated *Multi-Hazard Mitigation Planning Guidance*, dated March 2004, replaces the previous Plan Review Criteria, incorporating feedback and addresses issues that State and local officials and FEMA staff discussed at the Mitigation Planning Workshops. This document has been further refined and updated as the *Local Multi-Hazard Mitigation Planning Guidance*, dated July 1, 2008.

The updated 2004 *Planning Guidance* **does**:

- Clarify the distinction between the “shoulds” (recommended to be in the plans) and “shalls” (required to be in the plans), and corrects the few discrepancies that were found in the July 2002 guidance relative to the Interim Final Rule,
- Improve explanations of the plan requirements,
- Improve the sample plan text to illustrate distinctions between plan approaches that would and would not meet DMA 2000 requirements,
- Revise some of the “reviewer’s comments” on the sample plan text to track more closely with the rule requirements, and
- Reformat the Plan Review Crosswalks (Standard State, Enhanced State, and Local) by breaking the requirements into elements where appropriate, to help plan writers and reviewers ensure that plans include the necessary information.

The updated 2008 *Planning Guidance* **does**:

- Combined mitigation planning requirements from all mitigation programs into a single document
- Require a discussion of NFIP repetitive loss properties
- Require a discussion of community’s continued compliance under the nfip
- Incorporate CRS planning requirements

The updated *Planning Guidance* **does not**:

- ✘ Change the requirements of the Interim Final Rule
- ✘ Establish new or additional planning requirements, or
- ✘ Necessitate a change in approach for planning currently underway, or for plans already approved.

The Multi-Hazard Mitigation Planning Guidance has been posted at www.fema.gov/fima/planning. For more information, please contact your FEMA regional office.

FREQUENTLY ASKED QUESTIONS (FAQ'S)

Question 1: Are HMGP planning grants subject to a benefit-cost analysis in order to be eligible for funding?

Answer: The Disaster Mitigation Act of 2000 authorizes up to 7% of the HMGP ceiling to be used for the development of State, Indian Tribal, and/or local mitigation plans that meet the planning criteria outlined in 44 CFR Part 201. A benefit-cost analysis is not required for the use of the 7% planning funds.

Question 2: What should be the role of private nonprofit organizations in the development, review, and approval of local mitigation plans?

Answer: Private nonprofit organizations, especially those that may be eligible applicants for mitigation projects, should participate in the development of the local mitigation plan. If they have fully participated in the development and review of the local plan, it is not necessary for them to approve/adopt the plan, as long as it is adopted by the local jurisdiction. Note: the issues related to private nonprofits that cover a wide geographic area, such as rural electric cooperatives or levee districts, will be addressed in a separate FAQ.

Question 3: Are separate plans required from State agencies when they are subgrantees to the State agency serving as the grantee to FEMA?

Answer: Not usually. State agency issues should be addressed in the State Mitigation Plan, and potential projects or funded activities should be included in the plan. The State has two options for addressing other State agency mitigation issues in a plan. The preferred option is to ensure participation in the State mitigation planning process by requiring each participating agency to sign-off on the State Mitigation Plan as a condition of mitigation project grant funding. State agencies should identify issues of particular interest to them, summarizing any specific projects, activities, or mitigation commitments in a brief document that can be an addendum to the State Mitigation Plan. The second option is: if agencies do not participate in the Statewide planning process, then they must prepare a separate plan in order to be eligible for mitigation project grant funding.

Question 4: What is the policy to prevent a conflict of interest when a contractor has the potential to be involved in the preparation of a mitigation plan and that same company is used to assist FEMA in plan reviews?

Answer: If the contractor has been involved at all in the preparation of a plan, or any portion of the plan, they will not be able to participate in the plan review. This does not apply to general data collection that may be generated as part of post-disaster recovery activities.

Question 5: The planning criteria outlined in 44 CFR Part 201 discuss the development of countywide or multi-jurisdictional plans (which must be adopted by all jurisdictions included), since many issues are better resolved by evaluating hazards in a more comprehensive fashion. If a jurisdiction within the boundaries of a multi-jurisdictional planning area does not participate in the planning process and/or does not formally adopt the plan, what are the implications to the other participating jurisdictions within that multi-jurisdictional plan?

Answer: When a multi-jurisdictional plan is prepared, any participating entity/jurisdiction must adopt the plan if they wish to be eligible for future project grant funding from FEMA. If they do not want to sign off on the plan, that will not prevent any of the other jurisdictions from approving the plan and being eligible for project grants. For instance, if there was a countywide plan, and town A did not adopt the plan, but the county and other towns/cities did adopt it, the only one adversely affected would be town A. We expect, however, that the multi-jurisdictional plan would address any issues that crossed over jurisdictional lines to as great a degree as possible.

Benefit-Cost Analysis for Projects

Question 6: What level of detail should be provided in mitigation plans with respect to benefit-cost calculations for projects?

Answer: According to DMA interim final regulations [44 CFR §201.6(c)(3)(iii)] local mitigation plans must contain a strategy (or action plan) whereby “Prioritization shall include a special emphasis on the extent to which benefits are maximized according to a benefit-cost review of the proposed projects and their associated costs.”

This is not intended to require a full-blown benefit-cost calculation for inclusion within the plan document. However, one key aspect of the many considerations in deciding what type of mitigation action(s) to pursue is an economic assessment of the particular action. This (and the other considerations) should be debated and discussed as part of the planning team’s and/or larger community’s decision-making process. A possible result of these local discussions *could* be the decision to complete a formal benefit-cost evaluation of the various mitigation approaches that are technically appropriate for the situation. However, this is not required to be included in the plan. As long as the economic considerations are summarized in the plan document as part of the community’s analysis of the “comprehensive range of specific mitigation actions of projects being considered...” [44 CFR §201.6(c)(3)(ii)], that would be sufficient.

Once funding is being sought for the particular mitigation action, the detailed benefit-cost calculation would be required, as described under the various grant program regulations.

Level of Detail for Risk Assessments

Question 7: What level of detail is necessary for a Risk Assessment?

Answer: The short answer to this question is: “It depends.”

As stated in 44 CFR §201.6(c)(2), the risk assessment should provide enough information to enable the jurisdiction to identify and prioritize appropriate mitigation actions. The risk assessment must include a description of the vulnerability that includes the potential impact of each hazard on the community. This type of information can be portrayed in many ways, but must be based on **best available data**. The following provides examples of the variety of ways vulnerability can be depicted; each of the examples below could meet DMA criteria if it is determined that the approaches and data used represent the community’s best-faith efforts to obtain the most recent, accurate data available.

Communities A, B, and C each contain 5,000 households and 100 businesses (based on Census data and the local community plan). The communities each have a 100-year floodplain running through them, but there is no detailed information as to how many buildings lie in the floodplain, nor is there detailed information on what the depth of the 100-year flood would be at the buildings. The communities can demonstrate their vulnerability in the following ways:

Scenario 1: Community A’s planning team obtains the tax maps (containing parcel-level information) for the community and transfers the FIRM boundaries onto it. It then counts the number of homes and businesses within the floodway and floodplain boundaries. The planning team determines that there are 500 households and 28 businesses within the floodplain, 100 of which are within the floodway. The planning team obtains the backup information from the FIRM used by the study contractor that performed their currently effective Flood Insurance Study. They then determine that the average 100-year flood depth in the floodway is 9 feet, and the average 100-year floodplain depth is 6 feet. They also determine that there are areas of high flow velocity in certain reaches of the stream, indicating that localized erosion may be a problem.

Scenario 2: Community B does not have detailed flood mapping; they have flood boundary information. The planning team estimates that, based upon the density and pattern of development in the community, approximately 15% of the housing and 20% of the businesses in the community lie in the 100-year floodplain. This is estimated visually by transferring the FIRM boundaries onto a land use map previously developed by the planning department. By multiplication, they determine that approximately 750 homes and 20 businesses are in the floodplain. The team then takes a USGS quadrangle map and estimates the average ground elevations within the floodway, and within the

floodplain, and compares them with the average base flood elevation obtained from the FIRM. They determine that the average depth in the floodplain is 5 feet.

As the vulnerability assessment is completed, it is noted that given the zoning designation of currently vacant land within the floodplain, there is the potential for an additional 100 houses to be built in the floodplain. This is brought to the attention of the planning director.

Scenario 3: Community C works with the local university to have students do a “windshield survey” of the homes and businesses located in the floodplain. The students first obtain Q3 flood boundaries from www.hazardmaps.gov, and transfer them onto a new street map. They then use an old tax map to begin counting structures within the flood boundaries. Lastly, they take to the streets to visually count the number of homes and businesses that likely lie within the flood boundaries delineated on their street map. They determine there are 425 homes and 22 businesses within the flood boundaries.

In the examples above, each community arrived at the number of structures within the floodplain in a different manner, using the best data available to them, and using methods that matched the resources of the community. None of these communities used GIS, a tool often used in risk assessment activities.

Plan Detail on Critical Facilities

Question 8: What level of detail is needed in the plan’s identification of critical facilities?

Answer: The plan should provide enough information regarding critical facilities to enable the jurisdiction to identify and prioritize appropriate mitigation actions.

However, some information may be deemed as highly sensitive and should not be made available to the public. Such information that the jurisdiction considers sensitive should be treated as an addendum to the mitigation plan so that it is still a part of the plan, but access can be controlled. For more information on protecting sensitive information see *How-To #7 Integrating Human-Caused Hazards into Mitigation Planning* (FEMA 386-7).

Acquisition Project Addresses

Question 9: Are potential acquisition project property addresses required to be noted in the plan?

Answer: No. A list of potential properties or areas that are being considered for acquisition should be prepared in advance, as part of the mitigation strategy, but the specifics regarding property addresses should remain at the project level.

List of Acronyms

BCA	Benefit-Cost Analysis
BMPs	Best Management Practices
CDBG	Community Development Block Grant
CFR	Code of Federal Regulations
CIP	Capital Improvement Plan
CRS	Community Rating System (part of the National Flood Insurance Program)
CZM	Coastal Zone Management Program
DMA 2000	Disaster Mitigation Act of 2000
DOT	Department of Transportation
FEMA	Federal Emergency Management Agency
FIRM	Flood Insurance Rate Map
FIS	Flood Insurance Study
FMA	Flood Mitigation Assistance Program
GIS	Geographic Information System
HMC	Hazard Mitigation Committee
HMGP	Hazard Mitigation Grant Program
HUD	US Housing and Urban Development
IBC	International Building Code
IFR	Interim Final Rule
MOU	Memorandum of Understanding
NEPA	National Environmental Policy Act
NFIP	National Flood Insurance Program
OMB	Office of Management and Budget
PA	Public Assistance
PDM	Pre-Disaster Mitigation Program
SBA	Small Business Administration
SHMO	State Hazard Mitigation Officer
STAPLE+E	Social, Technical, Administrative, Political, Legal, Economic, and Environmental
UCC	Uniform Construction Code