

California State Lands Commission
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January 26, 2025

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Re: California State Lands Commission (CSLC) Review of the City of Newport Beach's management of state public trust lands consistent with its statutory trust grant, the Public Trust Doctrine, and the California Constitution as it relates to setting rates for the Newport Harbor mooring fields, and CDP 5-23-0753.

Good day all,

On Oct. 9, 2024, the California State Lands Commission Executive Officer, provided a briefing to the California Coastal Commission (CCC) on these matters. During that agenda item, speaking about the CSLC, the Executive Director of the CCC stated:

"...we were collectively pleased that the City opted to pause its consideration of mooring rate increases and rule changes while the State Lands Commission conducts a review of the City's management of its granted public trust lands."

The CCC Meeting calendar for Feb. 5, 2025, under Agenda Item 16 b. "Coastal Permit Applications", identifies the following:

b. [Application No. 5-23-0753 \(City of Newport Beach, Newport Beach\)](#)

Application by the City of Newport Beach to reconfigure one mooring field from single-row to double-row moorings, resulting in an increase from 55 moorings to 62 moorings, install conservation buoys, and replace existing anchor tackle with helical anchor tackle at mooring field C in the coastal waters of Newport Harbor, Orange County. (JP-LB) [Submit Comment](#)

This CDP proposes various, substantial changes relating to both rates and rules, during a time that these things are under review, and hopefully the watchful eye of the CSLC, CCC, et al. As the City has been inclined to do, this CDP proposes burdening Mooring Permittees with added and/or unnecessary expense, and doing so absent of data. It proposes increasing by up to 7, the number of "short-

term”, high-cost “City owned” Mooring Licenses, which are fee assessed at the problematic rates. Rates, that the CSLC Executive Officer described as having “discrepancies”, and those being “really appalling”. (16 Mooring Licenses already exist, as of 01/15/2025). The CDP process was not undergone for the creation of any of these City Owned “Licenses”, a vastly different mooring option in regulatory aspects, in length of term, in rate and rate increase structure, etc., etc.

Given the very short amount of time before CPD 5-23-0753 is to be heard by the CCC, I ask for immediate determination from CSLC and CCC Commissioners and Management, if the City pushing this CPD forward during the “Review” process, is in good faith, and/or complies/upholds/comports with both the CSLC, and CCC’s stated belief and desire, that the City had agreed to pause? ... This does not look like a pause to numerous stakeholders.

Sincerely,

A large black rectangular redaction box covering the signature area.

Adam Leverenz
adlever@

From: [chris.bliss](#)
To: [CSLC Commission Meetings](#)
Subject: Newport Beach Moorings
Date: Friday, February 21, 2025 4:53:28 PM

Attention: This email originated from outside of SLC and should be treated with extra caution.

Dear State Lands Commission,

The mooring fields, which are organized anchorages, have existed in Newport Harbor for over 100 years. They have served mariners well during that time and have offered a functioning and affordable option for coastal access and boating for thousands of people.

The city of NB appears to have a two-tier system when it comes to use of Newport Bay, which belongs to ALL Californians, not just the wealthy residents of Newport Beach. Simply put, the wealthy homeowners and yacht club members do not have to follow the same rules as everyone else and often are given preferential treatment. Private dock owners pay only a small fraction of what mooring users pay for the same tidelands usage. Many private dock owners have commercialized their docks, and rent out their docks at high fees, profiteering off the tidelands. Yacht clubs are given almost twice as much water area, with far fewer boats, than everyone else. "Private Beach" signs are common, and apparently tolerated, all over the harbor in front of bayfront homes. The list of discrepancies goes on and on.

Interestingly, On February 5th, The California Coastal Commission denied (9-1 against) the city's request to reconfigure an existing mooring field in the harbor based on safety issues. I believe the problematic staff report was because the coastal staff did not confer with the mooring holders to better understand the nuances of the situation and only got their information from the city. After the commission heard public comments from 40 public speakers, the facts came to light and the request from the city was denied.

As the SLC review continues, we sincerely hope that the SLC will reach out frequently with the mooring users, for advice, clarification, and/or inclusion in the ongoing discussions to assure a fair and equitable outcome for for the existing mooring holders that have been discriminated against for years.

The Newport moorings are an important benefit for us, they offer affordable access to the coast.

Christopher Bliss
Mooring holder, Newport Beach

For additional relevant information on this story, please see the article in the online publication Stu News Newport:

<https://stunewsnewport.com/state-agency-denies-citys-request-021425/>

From: [Admin](#)
To: [CSLC CommissionMeetings](#)
Subject: February 2025 Public Comment- Newport Beach Granted Public Tidelands Management Review
Date: Monday, February 24, 2025 8:06:03 AM

Attention: This email originated from outside of SLC and should be treated with extra caution.

Dear State Lands Commissioners,

On behalf of the Newport Mooring Association (NMA), we appreciate the opportunity to provide public comment regarding the ongoing review of Tidelands management in Newport Harbor.

The NMA was encouraged that Executive Officer Lucchesi concurred in October of 2024 with our longstanding concern that the City of Newport Beach has been undercharging certain tidelands users while overcharging mooring permit holders. We understand that the Commission's review of Granted Tidelands Management in Newport Harbor will be an important step in remedying this breach of the trustee's (The City of Newport Beach) fiduciary duties.

However, the last-minute action in July of 2024 taken by the City to convert mooring permits to licenses—taken without proper analysis or due process—appears to further entrench this inequitable treatment. The wholesale conversion of 100 year old mooring permits to newly formed licenses appears to be an attempt by the City to circumvent the rate discrepancy issue by converting low-cost permits to high-cost licenses.

We simply do not understand why the City continues to single out mooring holders. We have been subjected to unfair treatment, and now the City is attempting to take away our permits—all while granting discounts to private pier owners and leaving their permits untouched.

To prevent further breaches of public trust, we respectfully request that the Commission:

1. Take action to ensure that tidelands are not gifted to residential pier permit holders at the expense of other users.
2. Require the Trustee to rescind all actions taken in July 2024 regarding the conversion of mooring permits to licenses.
3. Require that the City of Newport Beach treat mooring permit holders and residential pier permit holders equitably in all aspects moving forward.

We appreciate your attention to this matter and urge you to uphold the principles of fairness and equal treatment in the management of public trust lands.

Sincerely,

Anne Stenton

President, Newport Mooring Association

From: [Edward Stancil](#)
To: secretaries@redwoodcity.org; [CLK-Yessika Castro](#); [Council-Jeff Gee](#); [California State Lands Commission](#); Boggiano_Reid@SLC; Lunetta_Kim@SLC
Subject: Please follow the guidelines
Date: Monday, February 24, 2025 12:20:17 PM
Attachments: [hbfullpak.pdf](#)

Attention: This email originated from outside of SLC and should be treated with extra caution.

Hi Friends., This is HOW most city s
Avoid pitfalls by making mistakes .. and that filing permits, and taking care of anything or checking to see who are the owners of the property are or file notices when they take the docks away. Anyway. Maybe a tutorial given by ex mayor Gee .. to. City staff about
What is Required.. for inverse Condination ..

- 1st. Permit / plan / town meeting
- 2nd. Check the Maps
3. Check with Stateland about boundaries
4. Treat Resident s. Equal to illegal immigrants.
5. It should be a sanctuary city for ALL ..

(This will help to keep legal fees down..
litigate for years on a single residence ..)

6. On Eviction complaint. Wrong Address 2018
With wrong Facts. .. (?? Atty skills Kevin/max)
7. To Remove My Slip and power and Docks

Huge Overstep slips 1 to 7. Gone ..

I'm still willing to take your offer of
\$190 k. As stated 12/24 offer ..

Thanks Edward Stancil

Let's settle if you make a official offer then

You should stand by it at least 45 days

Email me if you want to SEE offer 12/24

Thanks Edward Stancil

Yes Friend s. Since 2018 We have been in court over 20,000 pages of court papers.. ? With more Still coming appox.
\$750,000 of school money spent Not on residence or schools or affordable housing But in litigation for one guy me I feel sorry for you guys. I want to get out of this now and you should be accommodating.

It Not then I need to have the contact information of the
Program administrator or
Program Coordinator

The person responsible for this project .

As I have questions on the qualifications of the Docktown plan.. I can't believe that nobody's in charge .

Can you tell me who was in charge.,

Be For their was nobody .. thx . Edward

PROPERTY ACQUISITION HANDBOOK FOR LOCAL COMMUNITIES

A SUMMARY FOR STATES

HOW THIS HANDBOOK CAME TO BE

Across the nation, more and more flood-inundated communities are choosing property acquisition as a hazard mitigation option. Besides being a permanent solution to a hazard-related problem, property acquisition achieves many other objectives, such as protecting critical habitat, providing opportunities for recreation, providing flood storage, or enhancing other natural or cultural resources.

Since the devastating floods of 1993, Hazard Mitigation Officers from flood-inundated States and FEMA Regions have developed guidelines to assist communities through the property acquisition process. Hundreds of acquisition projects have tested the effectiveness of those guidelines.

The Property Acquisition Handbook for Local Communities brings together into one document the best practices from States that have successfully fostered property acquisition projects. FEMA and its cadre of Region, State, and local subject-matter experts and potential users designed the handbook to:

- ❑ Bring as much nationwide uniformity as possible to the property acquisition process, while respecting each State's and FEMA Region's diversity.
- ❑ Make the process more user-friendly for the communities, regardless of their size, expertise, and human and technical resources.

- ❑ Reduce the amount of time between the disaster and the receipt of a check by the property owner by streamlining the process to the greatest extent possible. The Handbook's Mission

The handbook's goal is to empower communities with knowledge and best practices that will enable them to:

- ❑ Determine if property acquisition is the most viable mitigation alternative for them before investing too much time and too many resources.
- ❑ Plan property acquisition projects so the projects are well directed from the beginning.
- ❑ Develop sub-grant applications that have the best possible chance of being approved and funded.
- ❑ Submit applications that are right the first time, precluding the need for revision cycles that can slow the process.
- ❑ Manage property acquisition projects efficiently.
- ❑ Administer sub-grant funds according to laws and regulations, general accounting principles, and good business practices.
- ❑ Use acquired properties in ways that make sense for the community.
- ❑ Maintain acquired properties as open space.

THE CHALLENGE

Our biggest challenge was writing guidance that would be meaningful to thousands of communities, all of which face their own unique challenges. Consequently, we have taken care to describe generic procedures and advise communities to seek specific guidance from their States. For the benefit of all communities, but especially for those that have limited resources, we have provided a Toolkit containing further guidance and forms to assist communities throughout the property acquisition process.

CONTENTS OF THE HANDBOOK

We provide each State with hard copies of the Property Acquisition Process poster and Property Acquisition Handbook for Local Communities to distribute to their communities. A three-ring binder contains:

- ❑ Property Acquisition Handbook for Local Communities.
- ❑ Property Acquisition Handbook Toolkit, Part 1 of 2, Tools.
- ❑ Property Acquisition Handbook Toolkit, Part 2 of 2, Forms.
- ❑ Poster.

The subsections below explain the poster and the binder's contents in detail.

POSTER

The wall poster presents a “road map” for communities considering and implementing property acquisition projects. It depicts the four phases of the process, using a distinct color for each, and the major steps of each phase, using an icon and a short caption for each. The handbook is divided into sections according to the phases, icons, and captions on the poster.

The icons appearing on the poster also appear in the margins of the handbook where the steps are fully explained. For example, each phase has at least one town meeting, which is represented by an icon of a building with a banner reading “town meeting.” A community's project staff will soon associate that picture with a town meeting and know “at a glance” when within the process town meetings should be held and where within the handbook they can learn how to prepare for and conduct town meetings.

The poster also uses “road signs” such as “stop” and “wait” to guide project staff through contingencies. In addition, it provides space for staff to note important dates, such as the deadline for submitting applications to the State.

The steps identified on the poster and the order in which they are presented represent generic property acquisition steps and a logical progression for completing them.



The arrows between the icons show the progression or “flow” of the steps. Where the arrows separate into two “paths” those steps can be performed concurrently. For example, in Phase I, the arrow leading from “Identify Project Team” divides into two arrows, one leading to “Outline Project Strategy” and the other to “Prioritize Target Properties.” The placement of these icons indicates that the local community can accomplish those steps concurrently. For example, a community can outline its project strategy as it prioritizes target properties to acquire, or can assign certain members of the project team to do one, while other members do the other.

CONVENTIONS USED WITHIN THE HANDBOOK

The handbook uses the following conventions to present information in a user-friendly format.

- ❑ Shaded text boxes, which are used to present general notes and supplemental information that warrant emphasis or do not easily fit into the main body of text. The note above is an example. Shaded text boxes also present “Good Ideas,” which are practices successfully used by communities around the country, and case studies, which are success stories from around the country.

- ❑ Marginal notes, such as references to the Code of Federal Regulation or to other FEMA publications.
- ❑ Icons, which correspond to the poster and direct the user to the place within the handbook where a step is explained in detail.

PROPERTY ACQUISITION HANDBOOK FOR LOCAL COMMUNITIES—MAIN TEXT

The first wire-bound book within the three-ring binder is the main body of text. It is the “how to” guidance. In addition to a table of contents and preface, it contains the following six tabbed sections:

- ❑ To Buy or Not to Buy
- ❑ Application
- ❑ Implementation
- ❑ Open Space Management
- ❑ Glossary and Acronyms
- ❑ Index

■ To Buy or Not to Buy

This part of the handbook describes Phase I of the property acquisition process. It provides general information and then guides the community through deciding whether or not property acquisition is an appropriate mitigation alternative. To Buy or Not to Buy is divided into an introduction, two chapters, and an appendix:

- ❑ **Introduction.** The Introduction briefly describes and contrasts the Hazard Mitigation Grant Program (HMGP) and Flood Mitigation Assistance Program, and identifies the contents of Phase I.
- ❑ **Chapter 1 – The Basics.** Chapter 1 is a tutorial on property acquisition and the HMGP. It explains—as far as possible in layperson’s terms—the federal laws, regulations, and policies that drive the

property acquisition process. As a result, it builds the community's knowledge base and lays a foundation for the rest of the guidance. Chapter 1 also discusses the importance of managing the property owners' expectations, and building and maintaining lines of communication with the property owners. This chapter is divided into five major subsections:

- Criteria for Projects Funded under HMGP
 - Money Matters
 - Types of Property Acquisition
 - Methods of Property Acquisition
 - Property Acquisition and the Property Owner
- **Chapter 2 – Getting Started.** Chapter 2 is the beginning of the property acquisition process itself. At this point, the contents of both the poster and handbook are parallel. This chapter guides communities through the decision-making steps and is divided into 10 subsections:
- Evaluate Your Mitigation Options
 - Determine Your State's Priorities and Procedures
 - Identify Project Team
 - Outline Project Strategy
 - Prioritize Target Properties
 - Conduct Town Meeting
 - Community Wants Buyout?
 - Examine Ability to Complete Project
 - Examine Project's Impact on Community
 - Community has Resources and Consensus to Proceed?

- **Appendix.** This Appendix is a brief explanation of federal regulations addressing floodplain management and wetland protection, and what those regulations mean to communities pursuing property acquisition. It is divided into two major subsections:
 - 44 CFR Parts 9 & 10
 - What do 44 CFR Parts 9 & 10 Mean to My Community?

■ Application

Phase II, guides the community through completing and submitting a property acquisition application that has the best possible chance of being approved by the State and FEMA.

This part is divided into an introduction and three chapters as follows:

- **Introduction.** The Introduction describes the contents of Phase II.
- **Chapter 1 – First Things First.** The first chapter guides communities through preliminary application-related tasks per the major subsections below. These tasks alert property owners and the State to a community's intention to submit an application and begin collecting the information required on the application.
 - Submit Notice of Pre-Application
 - Conduct Town Meeting
 - Start Project Planning
- **Chapter 2 – Ready, Set, Apply.** Chapter 2 leads communities through completing and submitting a property acquisition application and is divided into the two major subsections below. This chapter explains the detailed information required on an application, and suggests how to compile and present that information.
 - Complete Project Application
 - Submit Application to State

Note

This part uses a generic application to illustrate the minimum information and level of detail required by FEMA. We recognize that individual States might have their own forms and additional requirements, and caution communities to use their State's forms if they exist.

- **Chapter 3 – While You Wait.** For communities that are confident of funding, Chapter 3 describes what can be done to prepare for the receipt of grant funds. The chapter leads them through some activities to prepare for receipt of those funds, enabling them to quickly get their project started once funds are received. Individual communities can decide how much preparation they want to do before the implementation phase, and how much they want to delay until receipt of funds. This chapter is divided into two subsections, with emphasis on the second.
 - Follow Up
 - Prepare to Receive a Sub-Grant

■ Implementation

This part of the handbook explains Phase III of the property acquisition process. It guides communities through implementing property acquisition should their applications be approved and funded. It leads them through actually acquiring properties, and managing their sub-grant funds and files. This part comprises an introduction and five chapters as follows:

- **Introduction.** The Introduction identifies the contents of Phase III.
- **Chapter 1 – Before You Do Anything Else.** Chapter 3 of Phase II transitions into Chapter 1 of Phase III, and assumes the community's application is approved and funded. This chapter instructs communities to complete any preparation activities not yet completed, and to

familiarize themselves with their sub-grant and related documents. It is divided into three subsections:

- Complete Activities from Phase II, Chapter 3
 - Carefully Review Your Sub-grant Agreement
 - Gather copies of Applicable Regulations and Procedures
- **Chapter 2 – Set Up Your Sub-grant Administration System.** This chapter is a tutorial on sub-grant administration. It also helps communities set up a system for managing their sub-grant funds, records, and files. Chapter 2 is divided into three subsections:
- Set Up Your Financial Record-Keeping System
 - Set Up Your Property Acquisition Project Filing System
 - Budget Your Administrative Costs
- **Chapter 3 – Finish What You Started.** Chapter 3 helps communities perform the tasks that earlier chapters have helped them prepare. It is divided into the following major subsections:
- Implement Policies & Procedures
 - Submit Press Release & Conduct Town Meeting
 - Procure Necessary Services
- **Chapter 4 – Acquire Those Properties!** Chapter 4 “walks” communities through the interactions, real estate transactions, and inspections required for acquiring property. The major subsections, listed below, comprise a “to do list” for communities.
- Meet with Property Owner
 - Conduct Title Search & Appraisal
 - Determine Duplication of Benefits
 - Make Offer to Property Owner
 - Request Funds from State

- Conduct Closing
- Clear & Inspect Land

□ **Chapter 5 – Conduct Sub-grant Closeout.** This short chapter explains how to officially “close the books” once a community has completed its property acquisition project.

■ **Open Space Management**

This part, Phase IV of the process, summarizes some of the “best practices” used by communities throughout the country that have implemented property acquisition projects and converted acquired property into open space as required by law. It comprises an introduction and three chapters as follows:

- **Introduction.** The Introduction reiterates the federal law requiring all property acquired with HMGP funds to be forever maintained as open space and identifies the contents of the phase.
- **Chapter 1 – Open Space Use Questions & Answers.** Chapter 1 is a basic discussion of open space and its contribution to a community. The chapter’s major subsections answers the following three questions.
 - How May We Use Our Open Space?
 - What is Prohibited on Open Space?
 - How Can Open Space Benefit My Community?
- **Chapter 2 – Planning.** Chapter 2 guides communities through basic open space planning activities. It is divided into these subsections:
 - Identify Open Space Workgroup
 - Involve Community
 - Prepare Open Space Concept Plan

□ **Chapter 3 – Implementation & Long-term Management.** This chapter helps communities turn their open space plans into reality and maintain their open spaces for the long term. It is divided into these four major subsections:

- Obtain Funding
- Obtain Technical Assistance Resources
- Implement Your Open Space Plan
- Manage & Maintain Open Space Property

■ **Glossary and Acronyms**

The Glossary and List of Acronyms contains the meanings of words, terms, and acronyms used in the handbook, as well as other common words, terms, and acronyms that community project staff might hear or see as they interact with others involved in disaster recovery and hazard mitigation.

■ **Index**

The index enables community project staff to quickly find information on a specific subject (e.g., duplication of benefits) by identifying where related information is within the handbook and toolkit.

PROPERTY ACQUISITION TOOLKIT, PART 1 OF 2, TOOLS

The two-part Toolkit provides tools to help communities maneuver through the property acquisition process and complete activities. The first part of the Toolkit contains tools such as checklists, town meeting briefing tips, sample letters, etc. Tools provide information succinctly and simply, illustrate a point, or ease the community's workload. All tools are numbered sequentially according to the phase during which they are first mentioned (e.g., Tool I-1, Tool II-1, etc.) and are referenced in the margin of the handbook's main text.

PROPERTY ACQUISITION TOOLKIT, PART 2 OF 2, FORMS

The unbound reproducible forms found behind the wire-bound books in the binder comprise the second part of the Toolkit. These forms are templates communities may use “as is” or customize to State and community specifications. Like the Tools, they also are numbered sequentially (Form I-1, Form II-1, etc.) and are referenced in the margin. Forms are provided on disk as well as hard copy.

DISTRIBUTING & USING THE HANDBOOK

You may distribute the handbook right away to familiarize communities with property acquisition before the next disaster strikes; or, after a disaster as part of the recovery effort.

We provided a tab labeled “State” at the back of the binder to enable you to insert State-specific policies, procedures, and forms before distributing the handbook to your communities. The handbook cautions communities to refer to and use materials provided by their States. In several instances, it also directs communities to contact their State Hazard Mitigation Officers if they have questions or require further information.

The handbook is a flexible tool, and we encourage you to use it in the way that makes sense for you and your communities. If you have any questions, please call your FEMA regional office or FEMA’s Hazard Mitigation Directorate in Washington, DC.

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PREFACE

Natural disasters are inevitable, and we have seen how the emotional and financial costs of coping with them can be overwhelming. The good news is communities all across our nation are restructuring themselves to reduce the effects of natural disasters.

FEMA sponsors two mitigation programs to help communities take a proactive approach to reducing the effects of disasters: the Flood Mitigation Assistance Program and the Hazard Mitigation Grant Program. This handbook explains the Hazard Mitigation Grant Program and leads you through the process of implementing one form of mitigation: property acquisition.

Property acquisition is effective because it is a *permanent* form of mitigation. It makes FEMA funds available to you for buying property in flood-prone areas, and dedicating that property to use as open space for all time. It enables you to remove people from harm's way . . . forever. In that way, it reduces future emotional and financial costs associated with your community's disaster response, recovery, and repair.

Many States and communities have implemented property acquisition projects, some of which have already stood the tests of natural disasters. To learn how effective property acquisition can be, read the example in "Property Acquisition at Work," which follows on the next page.

We encourage you to carefully consider the mitigation options available to you and choose the best one for your community. We hope this handbook will help you through that decision and, if you choose property acquisition, through the property acquisition process.

PROPERTY ACQUISITION AT WORK

The Missouri Buyout Program¹

The 1993 Midwestern flood was a record breaker both in terms of river levels and duration. Of the nine Midwestern States affected, the State of Missouri was the hardest hit. State officials estimate damages totaled \$3 billion.

Over 216,000 households were located in Missouri's designated floodplains. Many of those households were affected by the 1993 flood, which created a unique window of opportunity to create more permanent solutions to Missouri's increasingly frequent flooding problems. Both flood survivors and unaffected taxpayers began to call for a way to alleviate future vulnerability to flooding. The largest response was for a buyout (property acquisition). Like many States that suffered from that disaster, Missouri designed and implemented a buyout program. The State received close to \$100 million, which flowed down to the local communities. One reason Missouri's program was so successful was its emphasis on a collaborative partnership among Federal, State, and local governments.

No one imagined that Missouri would get an opportunity to test its buyout program's effectiveness so soon when the flood of 1995 struck. The 1995 flood was the third-largest flood of record in many places, despite the fact that it was considerably less devastating than its predecessor two years earlier. More importantly, the buyout program resulting from the 1993 flood had removed 2,000 families from harm's way by the time the 1995 flood struck.

¹ Extracted from *Out of Harm's Way/The Missouri Buyout Program*, prepared by the Missouri State Emergency Management Agency.

St. Charles County, Missouri

A good example of the success of Missouri's buyout program is St. Charles County, which is on the confluence of the Missouri and Mississippi rivers. In St. Charles County alone, the combined costs of the 1993 flood exceeded \$160 million.

The buyout program in St. Charles County acquired 1,374 properties located in the 100-year floodplain. These properties included over 560 single-family residences and 3 mobile home parks with a combined total of 814 mobile home pads, approximately 684 of which were occupied. When the 1995 spring rains hit, 1,000 families (approximately 2,500 people) were out of harm's way thanks to the buyout program. St. Charles County Planning Director, Steve Lauer estimates that at least 95 percent of those acquired properties would have flooded again during the 1995 disaster.

The table below compares and contrasts the costs of disaster assistance in St. Charles County resulting from the 1993 and 1995 floods. St. Charles County's property acquisition project cost \$13,700,810 to fully implement. However, by comparing the costs of the 1993 and 1995 floods, you can see the project's benefits far

St. Charles County Cost Comparison 1993 And 1995 Floods

Flood	Number of Applicants	Disaster Housing	Individual & Family Grants	Small Business Administration Loans	TOTAL
1993	4,277	\$8,359,550	\$5,818,167	\$11,898,600	\$26,076,317
1995	333	\$204,493	\$11,601	\$67,000	\$283,094

USING THIS HANDBOOK

This handbook is written specifically for local communities looking for ways to minimize the impact of future disasters. The handbook is a “how to” guide to lead you through one specific hazard mitigation alternative known as property acquisition (also referred to as “buyout”).

A wall poster accompanies the handbook and uses icons to present major steps of property acquisition “at a glance.” The icons on the poster appear in the margin of the handbook, where that step is explained in detail.

The handbook comprises four parts, each of which explains the four phases of the property acquisition process, and a Glossary, List of Acronyms, and two-part Toolkit.

The four phases are:

- ❑ **Phase I — To Buy or Not to Buy.** Phase I is the decision-making phase, which empowers you to make an informed decision whether or not property acquisition is an appropriate mitigation alternative for your community.
- ❑ **Phase II — Application.** Phase II leads you through applying for FEMA funds and getting your community ready to administer those funds should your application be approved.
- ❑ **Phase III — Implementation.** Phase III leads you through the actual acquisition of property and administration of FEMA funds.
- ❑ **Phase IV — Open Space Management.** Phase IV helps you plan how to use the property you acquire as open space, as required by law, and manage it for the long term.

The Glossary and List of Acronyms contain the meanings of words, terms, and acronyms you may see and hear as you proceed through the process.

The Toolkit contains tools that help you maneuver through the process and complete activities. The Toolkit is divided into two parts:

- ❑ **Checklists, samples, examples, etc.** These tools are designed to provide information succinctly and simply, illustrate a point, or ease your workload. They are numbered sequentially, according to the phase where they are first mentioned (e.g., Tool I-1, Tool II-1, etc.), and referenced in the margin. The tools are separately bound.
- ❑ **Reproducible forms.** These tools are templates you may use “as is” or customize to your State’s or community’s specifications. They also are numbered sequentially, according to the phase where they are first mentioned (e.g., Form I-1, Form II-1, etc.), and referenced in the margin. Both unbound paper and disk copies are provided. (Reproducible forms have been developed using Microsoft Word 97 software.)

If you have any questions or require technical assistance as you use this handbook, contact your State Hazard Mitigation Officer (SHMO).

A Word of Caution

Always use any forms your State provides to you. Use forms provided in this handbook only if your State has *not* provided a similar form or other instructions for providing data.

INTRODUCTION

Your community has experienced a destructive flood that has caused considerable damage to property, and major social and economic disruption to the well-being of your community. Property owners probably are concerned with living in the floodplain and are asking how they can avoid future risk and damage.

HAZARD MITIGATION GRANT PROGRAM

Presidential-declared disasters provide considerable funds to States and communities via the Hazard Mitigation Grant Program (HMGP). The HMGP assists States and local communities in implementing long-term hazard mitigation measures. The HMGP can be used to fund projects that protect public or private property. Examples of projects include:

- Retrofitting, such as floodproofing and elevating, to protect structures from future damage;
- Development of State or local standards to protect new and substantially improved structures from disaster damage;
- Development of comprehensive hazard mitigation programs with implementation as an essential component;
- Acquisition and relocation of structures from hazard-prone areas; and
- Acquisition and demolition of structures.

FEMA has regulatory oversight of the HMGP. However, the States are responsible for administering the HMGP, and prioritizing and selecting project applications from communities. States then forward project applications to FEMA for final approval.

The window of opportunity for applying for HMGP funds is relatively small. Communities that have experienced disaster damage compete for limited available funds. The effort communities must expend to complete all requirements for submitting an application that will meet both State and FEMA approval is considerable. Nevertheless, that effort is worthwhile.

FLOOD MITIGATION ASSISTANCE PROGRAM

Your HMGP application might be fully approved. However, if your application is not approved *and* your community participates in the National Flood Insurance Program (NFIP), the effort you have expended to apply for funds under HMGP puts you in an excellent position to apply for funds under FEMA's Flood Mitigation Assistance (FMA) program. FMA is a mitigation program that is not directly related to a disaster event. FMA provides funding to assist States and communities in implementing measures to reduce or eliminate the long-term risk of flood damage to buildings, manufactured homes, and other structures insured under the NFIP. FEMA annually provides funds to the States to conduct FMA projects. The States then can offer two types of FMA grants to their communities:

42 U.S.C. 4101
44 CFR Part 78

- ❑ Planning grants to develop or update flood mitigation plans. Plans must assess flood risk and identify actions to reduce those risks.
- ❑ Project grants to implement mitigation measures such as:
 - Elevation
 - Dry floodproofing
 - Acquisition

Only communities with structures and real property insured under the NFIP are eligible to receive a project grant under the FMA program. In addition, communities that have a State-approved mitigation plan might be in a better position to compete for HMGP funds.

Good Idea

Preparing an acquisition plan and conducting hazard mitigation planning can help a community obtain a favorable entry under the Community Rating System (CRS) and possibly reduce flood insurance costs to citizens of the community. See *Glossary* for more information.

CONTENTS OF THIS PHASE

This phase comprises two chapters:

- ❑ **Chapter 1 — The Basics.** Chapter 1 provides basic information about property acquisition and FEMA's requirements for a project. Its purpose is to build your knowledge base so you can successfully complete the steps you see depicted on the poster.
- ❑ **Chapter 2 — Getting Started.** Chapter 2 guides you through activities that will help you decide whether or not property acquisition is feasible for your community. The knowledge imparted by the first chapter and the activities of the second put you in the best position to decide whether to buy or not to buy.
- ❑ Part 1 of the **Toolkit** contains the following tools referred to in this phase:
 - Tool I-1, Examples of Mitigation Options
 - Tool I-2, SHMO¹ Shopping List
 - Tool I-3, Sample Job Description
 - Tool I-4, Town Meeting Checklist
 - Tool I-5, Conducting Town Meeting Checklist
 - Tool I-6, Sample Agenda
 - Tool I-7, Sample Presentation Notes
- ❑ Part 2 of the **Toolkit** contains the following forms:
 - Form I-1, Hazard Mitigation Project Strategy
 - Form I-2, Property Owner Questionnaire I
 - Form I-3, Self-assessment Worksheet

¹See *Glossary and Acronyms*

CHAPTER 1 — THE BASICS

Since the devastating floods of 1993, States with flood-prone communities have generally opted to accept and forward to FEMA a large percentage of community applications outlining acceptable property acquisition projects. Generally, property acquisition, which forever removes vulnerable property owners from the floodplains, is the best and most cost-effective mitigation alternative.

This handbook is designed to help communities through the property acquisition process — from formulating a potentially successful application, through implementing and closing out a project, to managing and maintaining acquired open space. But, first, you must decide —

Is property acquisition the best and most cost-effective mitigation alternative for my community?

This phase of the handbook, **Phase I — To Buy or Not to Buy**, will help you make that decision.

This first chapter gives you a basic understanding of property acquisition. It presents — as far as possible in layperson's terms — the laws, regulations, and policies that drive the property acquisition process.

CRITERIA FOR PROJECTS FUNDED UNDER HMGP

■ Minimum criteria

The Robert T. Stafford Disaster Relief and Emergency Assistance Act (Public Law 93-288) is the statute governing the HMGP. Its implementing regulations are located in Title 44 of the Code of Federal Regulations (CFR).

44 CFR §206.434 (b)

By Federal law and regulation, any property acquisition project using HMGP funds must, at a minimum:

See the Appendix to this phase for an explanation of 44 CFR Parts 9 & 10

- ❑ Conform to the State's Section 409 Hazard Mitigation Plan
- ❑ Conform to 44 CFR Part 9, Floodplain Management and Protection of Wetlands, and 44 CFR Part 10, Environmental Considerations
- ❑ Independently solve or be a functional part of a solution to a problem
- ❑ Prove to be cost-effective and a substantial reduction of future risk because it:
 - Addresses a problem that is repetitive or poses a significant risk to health and safety
 - Is the most practical, effective, and environmentally sound alternative among a range of alternatives
 - Is or contributes to a long-term solution to a problem
 - Considers long-term changes to the areas it protects
 - Costs less than its anticipated benefits

Costs and Benefits

FEMA or State financial analysts will perform a benefit-cost analysis (BCA) to determine if your project is cost effective. A project is cost-effective if its benefits are equal to or higher than its costs. The BCA compares the present-day cost of a project to its long-term benefits. Benefits simply are future damages that do not occur because a project has been implemented. Because acquisition projects permanently eliminate flood risks for purchased properties, their benefits continue far into the future.

■ Property acquisition and relocation requirements

Any community implementing a property acquisition project using HMGP funds:

44 CFR §206.434 (d)

- Must dedicate and *forever* maintain acquired property as open space.
- Must provide assurances that certain restrictions will be conveyed in the deed to acquired property.
- May not apply for or receive additional disaster assistance for acquired property. (However, farmers are still eligible for Federal Crop Insurance.)
- Must acquire properties only from property owners who *voluntarily* agree to sell their properties, and notify property owners in writing that it will not use its power of eminent domain to acquire properties if a voluntary agreement is not reached.

■ Other criteria

Through the implementation of property acquisition projects over the past several years, FEMA has established guidance policies to manage the finer details of project implementation and comply with other federal laws and regulations relating to property acquisition. Those policies include the following:

FEMA Policy

- Structures relocated from acquired property must be placed outside the 100-year floodplain.
- Structures must be demolished or removed from acquired property within 90 days of closing. (In extraordinary circumstances, States may allow exceptions to this requirement.)
- Ownership of acquired property may not be conveyed to private citizens or entities; ownership may be conveyed to other public entities or nonprofit organizations with the approval of the State and FEMA.

- ❑ Communities should assist FEMA in coordinating with their State Historic Preservation Officer (SHPO) regarding any structures that are 50 years old or older, or have historic significance.
- ❑ Communities may not use FEMA funds to acquire properties that are contaminated by hazardous materials (other than general household hazardous materials such as lead paint and asbestos). If a property contains hazardous materials, it must be cleaned up *before* it can be acquired.
- ❑ Flood-prone communities receiving HMGP funds must participate in the National Flood Insurance Program (NFIP). However, if your community has not been mapped, contact your State's floodplain management official; you may be eligible to receive HMGP funds. (For communities not participating at the time of the disaster, the State may consider and forward to FEMA their HMGP applications *if* they enter the NFIP within six months of the disaster declaration.)
- ❑ Because of the voluntary nature of acquisition, homeowners are not entitled to assistance under the Uniform Relocation Assistance and Real Property Acquisition Policies Act (URA). However, displaced tenants are entitled to assistance under the URA, and additional relocation assistance might be available to low-income homeowners living in floodplains.
- ❑ Communities must subtract from the purchase price of every property the total value of other disaster-related repair assistance paid to the owner to avoid duplicating benefits, *unless* the property owner can provide receipts showing that the benefits were used for their intended purposes (e.g., home repair). This policy is known as duplication of benefits (DOB), and is explained in detail in Phase II². To summarize, DOB avoids using tax dollars to provide the same benefits to one citizen twice. This deduction applies if the community uses pre-flood fair market value. The deduction does not apply if the community uses post-flood market value.
- ❑ Communities must accept responsibility for monitoring and enforcing the proper use of acquired property as open space.

²Only federal disaster-related assistance paid for the repair or replacement of structures is considered DOB.

What is allowable open space use?

Generally, allowable open space uses for acquired property include, but are not limited to, recreation; preservation; cultivation; grazing; camping (if adequate warning and evacuation time is available); non-commercial, temporary, open storage of vehicles that are easily moveable (such as recreational vehicles); and unimproved permeable parking lots. See Phase IV for more detail on allowable use of acquired property.

MONEY MATTERS

■ Project costs

HMGP funds help communities pay some of the project and administrative costs of implementing an acquisition project. Project costs include, but are not limited to:

- The fair market value (FMV) of each property
- Costs of conducting appraisals, lot surveys, title searches, closings, demolitions, and relocations
- Tenant relocation assistance
- Legal fees relating to contract review and settlement

■ Cost Share

Under the HMGP, FEMA may contribute up to 75 percent of your project costs. Your community must formally agree to provide a local match in the amount of the remaining project costs (at least 25 percent). However, sources may be available to help you meet those project costs, such as:

44 CFR §206.432 (c)

- ❑ **Your State.** Ask your SHMO if your State has made funds available and in what percentage or amount.
- ❑ **Department of Housing and Urban Development (HUD) Community Development Block Grant (CDBG).** You can use existing and supplemental appropriation CDBG funds toward your local match.
- ❑ **Donated funds.** Monetary donations from individuals and organizations (e.g., a local civic organization) can be applied toward the local match.
- ❑ **In-kind services.** Donated services (e.g., demolition) also can be applied toward the local match. (Often in such cases, a community will grant the demolition company salvage rights.)
- ❑ **Property Owners.** Property owners can use their own funds or donate 25 percent of the FMV of their properties. Property owners also can apply their Increased Cost of Compliance (ICC) claims toward the local match because the purpose of ICC is to assist property owners in implementing mitigation measures.

Increased Cost of Compliance (ICC)

When a structure covered by a standard flood insurance policy under the NFIP sustains a flood loss and is declared to be substantially or repetitively damaged, ICC helps pay property owners for the cost of mitigation measures, to include elevation, demolition, and relocation, up to \$15,000. ICC claims apply to structures only.³ See FEMA 301, *Increased Cost of Compliance Coverage*, for more information.

³See *Glossary* for more information on substantial damages

■ **Administrative costs**

In addition, FEMA currently contributes administrative costs on a sliding scale based on your total project costs. Administrative costs include the extraordinary costs your community incurs to administer your sub-grant such as the cost of preparing reports, overtime, and incidental expenses. *44 CFR §206.439 (b)*

Sliding Scale

Project Costs	Percent
first \$100,000	3%
next \$900,000	2%
next \$4,000,000	1%
costs over \$5,000,000	½%

For example, if your total project costs are \$6,000,000, FEMA will provide no more than \$4,500,000 (75 percent) of your project costs and \$66,000 of your administrative costs:

Project Costs	Scale	Administrative Costs
\$6,000,000	\$100,000 x 3%	\$3,000
(\$6,000,000-\$1000,000) \$5,900,000	\$900,000 x 2%	\$18,000
(\$5,900,00-\$900,000) \$5,000,000	\$4,000,000 x 1%	\$40,000
(\$5,000,00-\$4,000,000) \$1,000,000	\$1,000,000 x ½%	\$5,000
Total Administrative Costs		\$66,000

Since administrative costs are provided on a sliding scale, other “indirect costs” (e.g. overhead) are not allowed.

TYPES OF PROPERTY ACQUISITION

Generally, we can divide property acquisitions into two broad categories: basic acquisition and acquisition and relocation of structures.

■ Basic acquisition

A basic acquisition project simply acquires land and structures, and demolishes the structures located on the land. It is conducted like any other real estate transaction, and is the easiest type of acquisition project to implement and manage.

■ Acquisition and relocation of structures

An acquisition and relocation project is a basic acquisition that acquires land, but offers an alternative to demolishing structures: moving them out of harm's way, outside the floodplain. Relocation might mean simply moving a structure to another lot, or reestablishing an entire neighborhood at a new site within the community. A structure can be relocated on the same property if a portion of it is outside the floodplain. Relocation often is a good way to protect historic structures.

Relocating a Neighborhood: Village of Rhineland, Missouri

Rhineland, Missouri has a history of repetitive flooding, including four flood events in 1993 alone. Rhineland also has an old heritage and sense of community; its citizens have family ties and roots in the community dating back generations. Although mitigation for Rhineland means its survival, preserving its sense of community is just as important. As a result of the 1993 floods, Rhineland has used HMGP funds to move 32 homes from flood-prone bottomland to a bluff above the floodplain. It has used HUD CDBG funds and local bonds to build new roads and infrastructure to re-establish the neighborhood on the bluff. The local power company donated installation of new lines. As a result, the relocated homes have quadrupled in value.

METHODS OF PROPERTY ACQUISITION

■ Fee-simple acquisition

Fee-simple acquisition simply means acquiring title to land and structure(s). By law, restrictions must be attached to the deed (see Form II-11). Restrictions include the following:

44 CFR §206.434(d)(1)

- ❑ The property shall be dedicated and maintained in perpetuity for uses compatible with open space, recreational, or wetlands management practices.
- ❑ No new structure(s) will be built on the property except for the following:
 - A public facility open on all sides and functionally related to a designated open space or recreational use;
 - A public rest room that is wet floodproofed; or
 - A structure compatible with open space, recreational, or wetlands management use and proper floodplain management policies and practices, which FEMA's Director approves in writing before construction of the structure begins.

■ Acquisition of a conservation easement

Conservation easements are practical in agricultural areas where the owner wants to retain title to and continue farming his or her property. It also is practical where acquiring a large parcel of property is cost prohibitive. Simply defined, an easement is a right of passage over someone else's land. However, an easement can be used to prevent the owner from doing certain things. A conservation easement is an easement that prevents the property owner from developing the property. The property owner retains title to his or her property and can transfer title. However, the terms of a conservation easement acquired using HMGP funds carry the same restrictions as fee-simple acquisition, and the property is forever subject to those terms, regardless of who has title.

PROPERTY ACQUISITION AND THE PROPERTY OWNER

Among the biggest challenges of property acquisition is managing the property owners' expectations. The best ways to meet these challenges are to understand and communicate with the property owners.

■ Understand the property owners and what motivates them.

You might find that some property owners are eager to sell their property. Others may be reluctant, apprehensive, or undecided. Others might be absolutely against the idea. Many factors influence a property owner's decision whether or not to sell. Examples include:

- Personal finances
- Degree of damage and amount of personal property lost
- Value of property
- Age of household
- Size and makeup of household
- Personal acceptance of risk
- Neighbors' decisions
- Family's and friends' opinions
- Quality of life offered in a new neighborhood, whether it is a relocated neighborhood or simply the area in which the property owner chooses to buy after selling his or her property to the community

Property owners are influenced by those factors in different ways. For example, one elderly couple whose children are grown might be eager to sell their large home with its large yard and move to a smaller home or condominium outside the hazard area. On the other hand, another elderly couple might be reluctant to sell the home where they raised their children, despite the risks of future disasters.

■ Communicate with the property owners.

Misconception also influences property owners' decisions and continued support of a project. Therefore, one of the most important tasks you can do is *communicate* with the property owners. It also is one of the easiest; all it requires is accessibility, honesty, and consistency. Some of the means of communication you can use include:

- ❑ **Point of contact (POC).** Provide a single POC who the property owners can get to know, and to whom they have regular and consistent access.
- ❑ **Informational materials.** FEMA and your State probably have brochures and pamphlets on hand that you can use. Ask your SHMO.
- ❑ **Public announcements and notices.** Use local radio and television stations to air public service announcements (PSAs). Publish public notices in local newspapers, community newsletters, and other local publications; and post them in houses of worship, community and shopping centers, and other places where people tend to gather. If your community comprises ethnic groups who speak other languages in addition to or instead of English, use those languages in your announcements and notices. If you do not, you risk excluding some property owners and violating anti-discrimination laws, as well as undermining the success of your project.
- ❑ **Public meetings.** Nothing can substitute face-to-face contact and open forums that allow for two-way exchange. This handbook contains details on how to conduct at least one town meeting during each phase of the process. If necessary, provide foreign and sign language interpreters at town meetings.
- ❑ **Hotlines.** If your community has the resources, establish a hotline that property owners can call to receive basic information and/or ask questions.

Feedback and timeliness also are important to communication. Listen to what property owners have to say, and respond to their questions as quickly and accurately as possible.

- **Manage property owners' expectations.**

The property owners must understand from the beginning that property acquisition, despite its mitigation effectiveness, might not make them whole again. However, they will receive *fair* compensation for their property. Property acquisition presents a good opportunity for them to recoup a large part of their investment in property that probably has lost some, if not most, of its value; but it will not compensate for their entire emotional and financial losses. In addition, they must understand that property acquisition takes time. No matter how dedicated your community, State, and FEMA regional staff are, property acquisition requires a lot of work . . . work that simply cannot be completed in just a few weeks time no matter how large your staff is nor how many hours they work. The good news is lessons learned and applied during the 1990s continually help speed the process and increase its efficiency. Under the *best* circumstances, property acquisition, from disaster occurrence to real eState closing, might take at least 7 to 18 months to complete.

CHAPTER 2 — GETTING STARTED

Good Ideas

- 1 Conduct damage assessments as soon as possible. Both the NFIP and HMGP require accurate assessments.
- 2 Identify and declare substantially damaged buildings as quickly as possible. (Substantially damaged means the cost of restoring a structure to its pre-disaster state would equal or exceed 50 percent of its pre-disaster market value.⁴)

You now have a basic understanding of property acquisition under the HMGP. This chapter gets you started in the property acquisition process itself. It guides you through the important steps of making a decision “to buy or not to buy.”

EVALUATE YOUR MITIGATION OPTIONS

Your first step is to look at the mitigation options that might benefit your community. This serves two purposes: first, it enables you to determine which is best for your community; second, it helps collect data for your application. Remember — to receive funding, you must prove that your proposed project is the best alternative among a range of options considered. In fact, you should describe at least three alternatives (one of which is “no action”) on your application. Mitigation options include, but are not limited to, those described in Tool I-1 in the Toolkit.



Tool I-1

⁴See FEMA 311, *Guidance on Estimating Substantial Damage for more information*

Your State Hazard Mitigation Officer (SHMO) and regional and local planners and engineers can help you identify and evaluate which alternatives are viable for your community. Alternatives that may not be funded by the HMGP might be funded by other Federal or State agencies. If your community wants to pursue an alternative that is not eligible under HMGP, ask your SHMO to help you find other sources of funding.



DETERMINE YOUR STATE'S PRIORITIES AND PROCEDURES

After evaluating your mitigation options, if you decide that you want to further explore property acquisition, your next step is to talk with your SHMO. Your State has developed and continues to maintain planning documents known as the State Section 409 Hazard Mitigation Plan, or simply the 409 Plan, and the State Section 404 Administrative Plan for the Hazard Mitigation Grant Program, or simply the State 404 Plan. Those plans, to some degree, create the context of all mitigation projects conducted within your State and establish procedures all communities must follow. In addition, your State might have established guidance for many of the decisions you are about to make, such as prioritizing properties for acquisition. So, before you go any further, you should contact your SHMO. You will find a "SHMO Shopping List" (Tool I-2) in the Toolkit. Use this tool as a checklist to ensure you ask for and get everything you need.

Tool I-2



IDENTIFY PROJECT TEAM

Ideally, the same project team should see the project through, from this decision-making phase through application to implementation. Also, ideally, your project team leader will be qualified and available to serve as your local sub-grant administrator as you implement your project.

Alternatively, your team leader can lead your team through the decision-making and application phases, and then turn the project over to the local sub-grant administrator for implementation. Once you have submitted your application, you can search for a local sub-grant administrator pending approval of your application.

You will find a sample job description for a local sub-grant administrator in the Toolkit (Tool I-3).

Tool I-3

■ What does the project team do?

The project team does everything discussed in this Handbook from this point forward in Phases I, II and III (see poster).

■ What should I look for in a team leader?

Planning a project and completing an application is a lot of work and requires input from many sources. The project leader will be the primary point of contact (POC), representing your community to the State and property owners. Consequently, look for someone who is:

- A strong, responsible leader
- Able to delegate tasks to match team members' skills and interests
- A good verbal and written communicator
- Organized, reasonable, and even-tempered
- Able to work with and gain the respect of team members, State and local officials, and (most important) property owners and tenants
- Able to work with people who are under considerable stress
- Able to troubleshoot problems and defuse tense situations
- Knowledgeable of local, regional, and State governments; and their departments, activities, and personnel

■ Who should be on my project team?

Anyone who is willing to help or serve as a resource should be on the team. You will need a mix of people who support the project and want it to succeed and who can:

- Interact with property owners and tenants, both in large groups and one-on-one
- Interact with State and local officials and government personnel
- Conduct research
- Speak in public
- Write well
- Prepare a budget
- Organize and maintain a filing system
- Provide clerical support

Your project team can comprise local and regional employees, paid consultants, and volunteers (to include property owners and tenants). At some point during your project planning or while developing your application or implementing your project, you may need technical assistance from legal counsel, appraisers, tax assessors, surveyors, engineers, budget analysts, grant specialists, building inspectors, zoning administrators and other experts. You likely will be able to find people who can provide this assistance among current local, regional, or State employees; contractors or consulting firms; independent consultants; citizen groups; colleges and universities; private organizations; etc. Those experts who provide technical assistance can be either members of the team or simply available to the team on an as-needed basis. Services provided by those experts on a voluntary basis during implementation might count as donated in-kind services toward your local match.

■ What about a team to develop my open space plan?

Since you must maintain any property you acquire as open space, begin planning how best to use that property as early as possible. You probably will find greater efficiency if you build an open-space team separate from your project team. The two teams can work in parallel and share data.

OUTLINE PROJECT STRATEGY

With the information provided by your SHMO as your framework and your team in place, you now are ready to start strategizing a potential project. Your strategy must work within the context of your State's hazard mitigation goals and objectives. Ultimately, your strategy will become the foundation for the community's Hazard Mitigation Plan.



Form I-1

Outlining your strategy begins with an assessment of how things are and a vision of how things can be. Use Form I-1 in Part 2 of the Toolkit to capture your project strategy and prioritize target properties, which is discussed in the next section. If you decide to buy, you can use much of this data on your application. To begin:

- Record basic data about your community, such as its population, area size, elevation above sea level, industry and economy, infrastructure, services, and topography. (Your State's economic and business development, environmental, and housing agencies can help. Also, check census records.)
- Summarize your community's disaster history. Go back at least 25 years, and farther if your community has suffered through significant disaster events. Check public and media records for as much detail as possible. (Your State's department of natural resources should have much of this data.) Include the year and type of event (e.g., flood), a description, and the amount of damages expressed in dollars. The description of the event should include its:
 - Cause (e.g., hurricane, melting snow, torrential rains, etc.)
 - Type of event (e.g., 100-year flood)

- Severity expressed in measurable terms (e.g., floodwaters rose two feet above the average three-foot flood stage)
 - Effects on life and property (e.g., 1 person was killed, 8 were injured, 52 properties were substantially damaged, and 219 were otherwise damaged)
 - Effects of past disasters on property and structures damaged during this most recent event (e.g., 100 Maple Avenue was flooded in 1992 and suffered damages totaling \$10,000; and again in 1995 with damages totaling \$12,000), as well as the effects of the recent disaster (e.g., 100 Maple Avenue was substantially damaged)
 - Rescue and recovery efforts (e.g., 500 people were evacuated from their homes)
- Identify and describe the areas affected by this most recent disaster and the damages suffered.
- Assess and describe the future risks from natural disasters to lives, property, infrastructure, and services within your community. Use historical data and characteristics of the area to extrapolate those future risks. On your application, you must describe a repetitive problem that your project would solve. This activity coupled with the one above will enable you to do that.
- Identify at-risk areas such as floodplains, and describe their vulnerability in terms of flood elevation and development.
- Identify alternatives to property acquisition. Since you have already evaluated your mitigation options, you should be well prepared to identify alternatives to property acquisition. On your application, you must demonstrate that you have considered at least three viable alternatives, of which property acquisition is one and no action may be another. (Your State might require more than three.) Identify and describe those alternatives now. For each alternative, describe:
- How well it would solve the problem
 - How it would address a recurrent or repetitive problem

- Its implementation and maintenance costs vs. the costs of future disasters if the alternative is not implemented
 - Its advantages and disadvantages
- Begin early to consider how you might use acquired property. Potential use should coincide with your community's overall environmental, conservation, recreational, and floodplain and wetlands management goals. FEMA does not require you to identify how you will use the acquired property, only that you make binding promises that you will maintain it as open space for all time. (This promise usually is in the form of an assurance on the application.)

PRIORITIZE TARGET PROPERTIES

Prioritizing properties for acquisition will be among your most challenging decisions. You might not receive enough HMGP funds to purchase every property you would like to acquire. Furthermore, your State or FEMA might ask you to explain your selection of properties to acquire. To prioritize target properties:



- Establish measurable and unbiased criteria by which you can classify properties
 - Rank criteria into priorities
 - Group target properties by criteria
- **Specific criteria**

Identify specific criteria that apply to properties within your community. For example:

- Properties that have been substantially damaged
- Properties that have suffered repetitive losses

- Properties that are insured under the NFIP
- Properties that are located in the floodway
- Properties that are located in the floodplain (e.g., identify 10-, 25-, 50-, 100-, 500-year floodplains as they apply to your community)
- Properties that are residential (and further classify such properties as those that are primary or secondary residences, and those that are owner- or tenant-occupied)
- Properties that are vacant lots
- Properties that are commercial
- Any other as directed by your State

■ Priorities

Based on any priorities established by your State and the criteria applicable to your community, establish your community's priorities. For example:

- Priority 1:** Properties that are primary residences and substantially damaged, located in the floodway, and either insured or uninsured
- Priority 2:** Properties that are primary residences and substantially damaged, located in the floodplain, and insured
- Priority 3:** Properties that are primary residences and substantially damaged, located in the floodplain, but not insured
- Priority 4:** Properties that are contiguous lots to priorities 1, 2, and 3

The actual number of ranked priorities will depend on your State's priorities and your community's criteria. Describe your priorities as definitively as possible. Regardless of how detailed your priorities are, briefly explain why each is a priority and why it is ranked as it is.

Good News

Acquisition of substantially damaged properties in floodways or floodplains in NFIP-participating communities generally are cost-effective, and may be processed more quickly than acquisition of other properties. Check with your SHMO.

CONDUCT TOWN MEETING

The handbook incorporates a town meeting in each phase. The Toolkit contains two tools to help you prepare for any town meeting. Tool I-4, Town Meeting Checklist, is a one-page checklist you can use before each town meeting to ensure you are adequately prepared. Tool I-5, Conducting Town Meeting Checklist, will help you complete the checklist the first time.



Tools I-4 and I-5

This first town meeting serves two purposes: it presents general information about property acquisition to property owners and begins to gauge their interest in participating. Therefore, give them enough information to enable them to begin thinking about that important decision. During this town meeting:

- Summarize hazard mitigation. Explain hazard mitigation simply, using enough detail to define it but not so much that you lose the property owner's interest. The property owners are mostly interested in the details that directly affect them.
- Explain property acquisition. Explain that property acquisition is only one form of hazard mitigation, but the most permanent form. Describe how it works. Briefly discuss relocation of structures.
- Explain fair compensation. Knowing they will receive a fair price for their property is important to them.

- ❑ Stress the fact that property acquisition requires voluntary participation. Property owners might be concerned that the government will try to force them to sell their homes. Assure them that property will be acquired *only* from owners who want to sell, and the community will *not* use its power of eminent domain to acquire property.
- ❑ Identify the types of costs that the community will pay for, and those that it will not.
- ❑ Explain duplication of benefits. During Phase II, the application phase, you will have an opportunity to explain duplication of benefits in detail during a town meeting. However, money is an important issue. Take this opportunity to *briefly* introduce property owners to duplication of benefits, and advise property owners to save all their receipts.
- ❑ Explain advantages and disadvantages of property acquisition to the property owners so they can make an informed decision as to whether or not they want to sell their property.
- ❑ Explain the property owners' obligations. Create a sense of teamwork. Explain that the property owners have active roles to play and can move the process along by:
 - Attending town meetings and promptly returning completed questionnaires
 - Evaluating their options and making decisions in a timely manner
 - Providing the documentation the community requests of them in a timely manner
 - Keeping their appointments for one-on-one meetings, appraisals, closings, etc.
- ❑ Explain alternatives to property acquisition, and the advantages and disadvantages of each. Share the knowledge you learned while evaluating your mitigation options.
- ❑ Identify your priorities for targeting properties. Briefly describe each priority and explain why it is ranked as it is.

- ❑ Answer questions. Solicit questions and answer them as fully as you can. Have knowledgeable State and local officials and employees on hand to provide answers. If you cannot answer any given question, tell the property owner you do not know the answer, but will find it. If you cannot answer it by the end of the meeting, publicize the answer later. Do not improvise an answer if you are uncertain.
- ❑ Ascertain the property owners' interest. This is a major purpose of the meeting. You can only proceed with a property acquisition project if the property owners are interested in selling. Open the floor to general discussion, and allow property owners to express their opinions and ask new questions. Distribute Property Owner's Questionnaire I (see Form I-2), and ask property owners to complete it before they leave. Designate someone to collect the completed questionnaires.
- ❑ Pass around a sign-up sheet (use two or more for large groups). Ask property owners to print their names, addresses, and telephone numbers regardless of their level of interest. The sign-up sheet will help document the meeting and establish a mailing list. (You also can use it to determine if any questionnaires are missing.)
- ❑ Compile minutes. Designate a recorder to compile the minutes of the meeting.

Form I-2

You will find a sample Agenda (Tool I-6) and Presentation Notes (Tool I-7) for this town meeting in the Toolkit. The Presentation Notes provide appropriate detail for this meeting's talking points.

Tools I-6 and I-7

COMMUNITY WANTS BUYOUT?

After the town meeting, you reach an important decision point. Immediately, review and evaluate the property owner questionnaires. What do they indicate about the property owner's interest in participating in a project? What does the meeting itself indicate?



If the property owners are not interested, property acquisition obviously is not an appropriate mitigation alternative for your community. However, if they are interested, it might be. You have two more considerations before you can make a final decision. Those considerations are:

- Your community's ability to complete a project
- The impact of a project on your community



EXAMINE ABILITY TO COMPLETE PROJECT

Applying for funds and implementing a project if FEMA approves the funds requires:

- Coordination among property owners; Federal, State, and local governments; and contractors and consultants
 - Constant and consistent communication with the property owners
 - Long-term management of acquired property
- **Examine your ability to fulfill those requirements and successfully complete a project.**
- Look carefully at the current and future commitments of your project team members, and local and regional employees
 - Determine what property data (e.g., tax assessments, legal descriptions, plats, elevations, etc.) are readily available to you, and how easily you can gather data not readily available
 - Determine your ability to provide the local match (at least 25 percent)
 - Develop an administrative budget for submitting an application, and implementing and completing a project
 - Estimate time lines for submitting and completing an application (which is dependent on your State's deadlines), and implementing and completing a project (which might require at least 7 to 18 months)

■ **Ask yourself the following questions and carefully evaluate your answers.**

- Does your community have the human and physical resources to see the project through?
- Is a project manageable considering the existing workloads on local and regional staffs?
- Will existing workloads suffer if your community implements a project?
- Does your community have the financial resources to supplement the administrative costs FEMA will contribute?
- Does your community have the human, physical, and financial resources to plan, manage, and maintain open space?

Your answers to the above questions will determine your *ability* to complete a project.

EXAMINE PROJECT'S IMPACT ON COMMUNITY

You have one more consideration before you are able to make a fully informed decision to buy or not to buy; that is, the impact of a project on your community as a whole. Property acquisition can have both positive and negative impacts on your community. Generally, the positive impacts are the same for any community. However, the possible negative impacts affect every community differently.



■ **Positive impacts of property acquisition include the following:**

- It provides more complete and permanent protection from future hazards than other mitigation alternatives because it permanently removes people from harm's way
- It reduces the financial and emotional costs of future disasters because every acquired property represents one less area where your community must direct response, evacuation, rescue, and recovery efforts

- It is consistent with general environmental, conservation, recreational, and wetland management goals
- It can help achieve floodplain management objectives because it helps expand flow-carrying capacity by increasing flood storage areas
- It makes land available for public use
- **To evaluate the possible negative impacts of property acquisition on your community:**
 - Determine the effect property acquisition may have on property values and taxes. Consider relocating homes to non-flood-prone areas of the community.
 - Determine the effect of a revised tax base on your community's ability to maintain services.
 - Based on your identified properties, determine the effect of not acquiring all properties within a priority or omitting an entire priority (or priorities).
 - Identify potential resources of funds for acquiring properties not covered by HMGP funds (e.g., FMA), and then evaluate the likelihood of tapping those resources.
 - Identify potential political or socioeconomic implications. For example, evaluate whether or not property acquisition unfairly benefits one ethnic group or inadvertently discriminates against another; or may reduce services or access to a portion of the community.
 - Determine the long-term budgetary impact of maintaining acquired property as open space. Identify potential non-profit partners to assist with this task.
 - Determine, based on available information, if historic buildings valuable to the community might be affected. Consider relocating or floodproofing historic structures.

■ Also, evaluate how your project:

- Assists citizens directly affected by the disaster
- Addresses your community's goals to:
 - Ensure a clean, safe, healthy environment
 - Attract and retain an adequate workforce
 - Provide adequate infrastructure to support development
 - Provide adequate housing
 - Preserve historic areas
 - Promote economic development
 - Maintain an adequate tax base

COMMUNITY HAS RESOURCES AND CONSENSUS TO PROCEED?

The time has come to make a decision. See the Toolkit for a self-assessment worksheet (Form I-3) that will help you ascertain whether or not property acquisition is the right mitigation alternative for your community.



Form I-3

If you decide “to buy,” go on to the next phase of this handbook, Phase II — Application.

On the other hand, if you decide “not to buy,” reconsider other mitigation alternatives.

Once you've made a decision, make a public announcement.

APPENDIX

44 CFR PARTS 9 & 10

Part 9 of Title 44 implements and enforces Executive Orders (EOs) 11988, Floodplain Management, and 11990, Protection of Wetlands. In support of these EOs and the National Environmental Policy Act (NEPA) of 1969, FEMA:

- Avoids any adverse impact associated with the development or modification of floodplains, and the destruction or modification of wetlands
- Does not support development on floodplains and in wetlands if a practicable alternative exists; and generally minimizes the destruction, loss, or degradation of wetlands
- Reduces the risk of flood loss; and minimizes the impact of floods on human health, safety, and welfare
- Promotes nonstructural flood protection methods to reduce the risk of flood loss
- Restores and preserves the natural and beneficial values served by floodplains
- Preserves and enhances the natural values of wetlands
- Involves the public throughout the floodplain management and wetlands protection decision-making process

Part 10 further supports the NEPA by ensuring that FEMA and any recipient of FEMA funds take care to:

- Evaluate effects of actions on the environment
- Protect, restore, and enhance the quality of the environment
- Avoid or minimize negative impacts on the environment

- Preserve historic, cultural, and natural aspects of our national heritage and diversity

To this end, FEMA conducts environmental reviews of the projects it funds to determine their impact on the environment. Exempt from extensive review under NEPA are projects that FEMA may determine have:

- Minimal or no effect on environmental quality
- No significant change to existing environmental conditions
- No significant cumulative environmental impact

WHAT DO 44 CFR PARTS 9 & 10 MEAN TO MY COMMUNITY?

They are meaningful in three ways:

- FEMA must determine whether or not an environmental review is necessary and to what extent one is necessary. Therefore, provide enough information on your application for FEMA to make that determination. This handbook and your SHMO and State environmental office will help you do that. Barring extraordinary circumstances, a property acquisition project typically has a positive impact on the environment and is exempt from the requirement for a more lengthy environmental assessment under NEPA. However, an acquisition project that involves FEMA funding of a relocation subdivision might require a more extensive review.
- FEMA also is required to comply with the requirements of other laws including, but not limited to, those governing historic buildings, archeological resources, and hazardous and toxic materials. You will be asked to provide specific information and assist researching these issues.

- ❑ You must keep the members of your community involved by keeping them informed. You can do this through public forums, such as public announcements and public meetings. Furthermore, you must give the public opportunities to express their opinions through surveys, public meetings, etc. Again, this handbook will help you meet this requirement.

INTRODUCTION

You have decided that property acquisition is the best mitigation alternative for your community. This phase supports your commitment to developing a sub-grant application that has the best possible chance of being approved and funded. Of course, whether or not your State recommends your application for funding depends on the amount of total funds it receives from the Federal Emergency Management Agency (FEMA), and how your community's project ranks among its mitigation priorities.

CONTENTS OF THIS PHASE

This phase comprises the chapters, tools, and forms identified below. Read all three chapters before you begin the activities.

- **Chapter 1 — First Things First.** Chapter 1 helps you to:
 - Submit a letter of intent or pre-application to your State
 - Conduct a town meeting to further prepare property owners and tenants for the property acquisition project, and to gather the information you will need for your application
 - Plan a project

- **Chapter 2 — Ready, Set, Apply!** Chapter 2 leads you through completing and submitting a property acquisition project application. A completed application requires detailed information about each property that your community might acquire. It also requires detailed information about the disaster itself, the history of disasters in your community, how this project will solve a disaster-related problem, and how your project might impact your community. (Use your Hazard Mitigation Project Strategy from Phase I to get started.) All of this information helps your State and FEMA determine whether your project is a cost-effective mitigation alternative and appropriate for funding under the Hazard Mitigation Grant Program (HMGP).

- ❑ **Chapter 3 — While You Wait.** Chapter 3 gives you a head start on Phase III, Implementation. It helps you use the time while your application is being reviewed to prepare yourself for implementing your project and managing government funds. Specifically, Chapter 3 discusses:
 - Preparing to administer a sub-grant and conduct a town meeting to initiate your project
 - Drafting contracts, policies, and procedures that you will need to conduct a project

- ❑ Part 1 of the **Toolkit** contains the following tools to help you work through this phase:
 - Tool II-1, Sample Pre-application
 - Tool II-2, Sample Letter of Notification (Property Owner)
 - Tool II-3, Sample Letter of Notification (Tenant)
 - Tool II-4, Sample Agenda
 - Tool II-5, Sample Presentation Notes
 - Tool II-6, Sample Application (Complex Project)
 - Tool II-7, Sample Application (Simple Project)
 - Tool II-8, Application Checklist
 - Tool II-9, Tips for Writing an Effective Press Release

- ❑ Part 2 of the **Toolkit** contains the following forms and fact sheets:
 - Form II-1, Pre-application
 - Form II-2, Duplication of Benefits (DOB) Fact Sheet
 - Form II-3, URA Relocation Assistance for Tenants Fact Sheet
 - Form II-4, Assistance for Mobile-Home Owners and Tenants Fact Sheet

- Form II-5, Property Owner Questionnaire II
- Form II-6, Tenant Questionnaire
- Form II-7, Application
- Form II-8, Offer Letter
- Form II-9, Statement of Voluntary Transaction
- Form II-10, Affidavit
- Form II-11, Exhibit A (Restrictive Covenants for a Deed)
- Form II-12, Exhibit B (Restrictive Covenants for an Easement)
- Form II-13, Tenant Relocation Assistance Application and Worksheet
- Form II-14, Hazardous Materials Property Survey/Individual Property Survey Form

CHAPTER 1 — FIRST THINGS FIRST

SUBMIT NOTICE OF PRE-APPLICATION

Let your State Hazard Mitigation Officer (SHMO) know that you are interested in applying for Hazard Mitigation Grant Program (HMGP) funds. If you have not completed your “SHMO Shopping List” (Tool I-2) from Phase I, do so now. Determine your State’s policy for pre-application and application, and obtain copies of its forms, if available.

Even if your State does not use a formal notice of intent or pre-application, call your SHMO and *follow-up* that telephone call with a letter. Your State must notify FEMA of its intent to participate in the HMGP within 60 days of the disaster declaration. Consequently, the State must know which of its communities are interested in property acquisition.

If your State does not have its own pre-application form and has not instructed you otherwise, you may use the template provided in the Toolkit (Form II-1). A sample completed pre-application is provided as Tool II-1.

Approximately one week after submitting your notice of intent or pre-application, contact your SHMO and ask if the State supports your intent to apply for HMGP funds. If the State does support your application, continue through this phase. If it does not support your application, consider other possible sources of assistance.



Form II-1 & Tool II-1

Special Note

If your State does not support your HMGP application, ask your SHMO about FEMA's Flood Mitigation Assistance (FMA) program. Also consider using U. S. Department of Housing and Urban Development (HUD) Community Development Block Grant (CDBG) funds. Explore other public agencies and private organizations that acquire property for conservation, preservation, and recreation purposes. See Phase IV for a partial list of possible sources of assistance.



CONDUCT TOWN MEETING

■ Prepare to conduct a town meeting.

Refer to the Town Meeting Checklist (Tool I-4) to prepare for the town meeting. In addition to preparing letters of invitation to congressional representatives and state officials, also prepare individual notices to owners and tenants of every property targeted for acquisition. Use the notices to:

- Explain the project
- Inform property owners that they might be eligible for property acquisition
- Inform tenants that they reside in properties that might be acquired and advise them that they might be eligible for tenant relocation assistance (See Form II-3 for detailed information)
- Emphasize the voluntary nature of property acquisition to property owners
- Encourage attendance at the meeting

Sample letters of notification to property owners and tenants are provided in the Toolkit (Tools II-2 and Tool II-3).

Tools II-2 & II-3

This second town meeting serves two purposes: it announces your community's firm intent to apply for a sub-grant to fund a property acquisition project, and continues to gather support from property owners. Property owners probably are tired of living through one disaster after another and are anxious to hear about the details of a potential solution. However, they also might be nervous about participating in a Federal grant program and unrealistic about the benefits it provides. For that reason, be sure to fully explain and *repeat* (as often as necessary) all benefit information, *especially possible benefit restrictions*. Try to make the meeting friendly, and as informative and supportive of the community as possible.

How One Community Did It: Fort Fairfield, Maine

Fort Fairfield, Maine hosted a town meeting that included a community supper, provided with the assistance of the Red Cross. They arranged separate breakout sessions for flood-affected residents and flood-affected businesses so that group-specific questions could be addressed. The community supper created a sense of camaraderie that might not have been achieved otherwise.

■ Conduct a town meeting.

During this town meeting:

- Introduce the point of contact (POC). The POC's job is to make sure no one falls through the cracks or has a question that goes unanswered. The POC can be the project team leader, or another project team member. Tell property owners and tenants who their POC is, how they may contact their POC (e.g., mailing address, email address, telephone number, etc.), and when their POC is available.
- Establish project office hours. Establish a regular project workplace and regular hours. Keep the office open at least one evening each week for the convenience of owners and tenants who might have other daytime commitments. On the back of the agenda, photocopy a map with the location of the office and its hours, address, and telephone number.
- Review the property acquisition process. Since property acquisition affects property owners, mobile-home dwellers, and tenants differently, consider using separate breakout sessions. Think about the number of people expected at the meeting, how many of them attended the first meeting (compare the sign-up sheet from the first meeting with the notices you prepared for this meeting), and how much they still want to learn. If many of those expected did not attend the first meeting, consider separate breakout sessions for those who attended the first meeting and those who did not. In any case, refer to your presentation notes from and issues raised during the first meeting to review property acquisition.
- Explain duplication of benefits (DOB) *in detail*. DOB is one of the most complex and least understood aspects of property acquisition. It is an issue that can cause confusion and anger if not properly understood. Therefore, be sure every property owner understands it. Photocopy Form II-2, Duplication of Benefits (DOB) Fact Sheet, and distribute copies to property owners. Consider asking your SHMO to provide an expert from outside your community (such as a FEMA staff member) to explain DOB at the meeting. DOB can be an unpleasant subject; having a neutral expert on hand to explain it can remove your project team members from any unpleasantness that could cause division between them and the property owners. Also, an expert can answer any questions the property owners might have.

Form II-2

Special Note

National Flood Insurance Program (NFIP) settlements for the repair or replacement of a structure are counted as DOB. As a result, many property owners who have purchased flood insurance through the NFIP and pay regular premiums might feel unfairly penalized. Therefore, FEMA offers States the option of providing a reimbursement to property owners with flood insurance whereby an eligible property owner can retain an amount from his or her flood insurance claim settlement equal to no more than five years of flood insurance premiums. Contact your SHMO to find out if your State provides this option. If it does, be sure to explain it when you explain DOB.

- ❑ Explain additional homeowner relocation assistance to property owners, if your community intends to offer it. Additional relocation assistance may be offered to low-to-moderate income (LMI) property owners to enable them to participate in the property acquisition project. Often, the fair market values (FMVs) and, therefore, the purchase prices of their properties, are not adequate for them to purchase properties in less hazardous areas. Additional homeowner relocation assistance helps them bridge the gaps between the amounts they are paid for their properties and the amounts they must pay for replacement housing. Check with your SHMO to determine if this assistance is available through a CDBG. This might be an Environmental Justice (Executive Order 12898) issue for which other funds might be available.
- ❑ Explain Uniform Relocation Assistance and Real Property Acquisition Policies Act (URA) to tenants (if applicable). If a property owner decides to sell his or her rental property to the community, tenants of that property are eligible for tenant relocation assistance under the URA. Photocopy Form II-3 and distribute copies to tenants. Use an easel and pad or chalkboard to go over the steps for calculating a rent increase. (See Form II-3 for the steps.)

Form II-3

- Explain assistance for mobile-home owners and tenants (if applicable). Generally, mobile-home dwellers tend to be grouped as follows:
 - Homeowners who own both the mobile home and homepad. Those mobile-home owners are considered to be property owners and are treated no differently.
 - Tenants who rent both the mobile home and homepad. Tenants of mobile homes are treated no differently than any other tenant. They are eligible for URA relocation assistance to tenants.
 - Homeowners who own the mobile home but rent the homepad. Those mobile-home dwellers are a hybrid of property owner and tenant. In this case, if the homepad, which the mobile-home owner rents, is acquired during a property acquisition project, that mobile-home owner is entitled to homepad rental assistance. Homepad rental assistance is comparable to URA tenant relocation assistance, and is calculated the same way. That same mobile-home owner also is considered involuntarily displaced from his or her homepad; and, therefore, also is entitled to replacement housing assistance. Replacement housing assistance is compensation for the difference between the value of the displacement mobile home and the cost of a replacement mobile home. Furthermore, mobile-home owners might be eligible to sell their mobile homes as part of the acquisition project.

Each of those benefits is independent of the others, and any mobile-home owner who owns a mobile home but rents the pad and chooses to sell is still entitled to all of the above benefits. Photocopy Form II-4, Assistance for Mobile-Home Owners and Tenants Fact Sheet, and distribute copies to mobile-home owners.

Form II-4

Consider asking your SHMO to provide experts to discuss the various kinds of assistance. They can easily explain eligibility and procedures, and answer any questions the owners and tenants might have.

- ❑ Answer questions. Solicit questions and answer them as fully as you can. Follow-up on questions you cannot answer. Allow open discussion. (Review guidance on establishing your local buyout policy in Chapter 3 of this Phase in case any of those topics arise during the question-and-answer period.)
- ❑ Collect data. Distribute the property owner's and tenant's questionnaires (Forms II-5 and II-6) and self-addressed, stamped envelopes. These questionnaires are information-gathering tools for your project team. They solicit individual property owner and tenant data, which is required by FEMA on the application. The property owner questionnaire also begins to capture data regarding DOB and assistance eligibility. Review the questionnaires; explain why the information is important and how it will be used, clarify any unfamiliar terminology, and emphasize the date it is due. (Give them at least one week to complete and return the questionnaire.)
- ❑ Pass around a sign-up sheet (use two or more for large groups). Ask property owners and tenants to print their names and, if this is their first meeting, addresses and telephone numbers. This sign-up sheet will help maintain your mailing list. (You also can compare it with the questionnaires you receive to determine if any are missing.)
- ❑ Compile minutes. Designate a recorder to compile the minutes.

Forms II-5 & II-6

You will find a Sample Agenda (Tool II-4) and Sample Presentation Notes (Tool II-5) for this town meeting in the Toolkit.

Tools II-4 & II-5

START PROJECT PLANNING

Before you sit down to develop your application, start thinking about how your community will address some of the finer details of property acquisition. These details depend on the priorities you established in Phase I, and form your community's local buyout policy. Your buyout policy is the foundation of your property acquisition project; it must be understandable, defensible, and applied consistently to all participants. The following activities will get you started. Chapter 3 covers these details and your local buyout policy in more detail. For now, think about the following and how your decisions might affect development of your application.



■ How will your community establish property values?

FEMA Policy

FEMA policy states that communities acquiring properties with FEMA funds must “establish and document a fair market value. The value must be derived from a reasonable methodology that has been consistently applied throughout the community, such as independent appraisals, opinions of value, or a formula based on tax assessments.”

To comply with that FEMA policy:

- Determine whether to base the purchase offer on pre- or post-disaster value. Your choice affects DOB.
- Determine the means of establishing FMV. (Appraisals usually are the most accurate means. Appraisals must be conducted by State-licensed or certified appraiser.)
- Calculate the purchase offer consistently for all participating property owners.
- Determine a policy and process for property owners to appeal a determination of value.
- Distinguish between pre- and post-disaster ownership. (For properties purchased after the disaster declaration date, base offers on the price the post-disaster purchaser paid, plus the cost of repairs he or she has made that can be substantiated by receipts.)
- Adhere to your State’s laws and regulations.

■ What amount of acreage per property is your community willing to acquire?

Acquiring property can become cost prohibitive unless some limits are set. Even communities in predominantly rural areas have limited each individual property acquisition to the residential structure and the land on which it sits, not to exceed one acre. Use fee-simple acquisition to acquire land and structures, or conservation easements to acquire structures and restrict land use. A conservation easement allows farmers to sell their homes yet retain ownership of the surrounding land for the sole purpose of farming. Likewise, it allows owners of large multi-acre lots to sell their homes yet retain ownership of the land for private recreational activities such as hunting, fishing, and camping.

When deciding how much land your community will acquire from a single owner, take into consideration:

- Your community's specific geographical location
- Your community's plans for the acquired land
- The property owner's needs and wants
- FEMA's policy to encourage the acquisition of contiguous properties

■ Will your community demolish or relocate structures?

Basic acquisition involves acquiring land and structures, and clearing the land by demolishing its structures. Relocation involves acquiring land only and clearing it by relocating structures to another site. (Relocation is a good way to preserve historic structures.) Your community might decide to relocate some structures and demolish others.

Demolition requires a qualified contractor to:

- Remove aboveground structures (e.g., gasoline tanks)
- Remove site improvements (out buildings)
- Fill in basements (with or without removing foundation walls)
- Remove or cap utilities and septic tanks
- Remove and dispose of asbestos

Relocation requires a qualified engineer to carefully consider:

- Health concerns often associated with flood-damaged buildings. Homes that have been exposed to harmful contaminants (e.g., oil, sewage, and chemicals) found in the floodwaters or have intense mold growth (which can cause severe allergic reactions) are *not* good candidates for relocation.
- The condition of the structures. Substantially damaged and otherwise unsound structures are *not* good candidates.
- The type of structure. The least-expensive and most cost-effective structures to relocate are those:
 - Built on crawl space or basement foundations

- Made of wood frame, or masonry but are small and compact
- Less than three stories high

■ What is your community's policy toward mobile homes?

Structure your policy in a way that makes sense for your community and its mobile-home population. Keep in mind:

- A tenant who rents a mobile home and the pad it rests on, and meets other tenant eligibility requirements, is entitled to relocation assistance under the URA
- A tenant who owns a mobile home but rents the pad it rests on, and meets other tenant eligibility requirements, is entitled to relocation assistance under the URA, even if the mobile home is acquired

■ Is your community committed to keeping property owners inside the community?

Your community may choose to implement a basic acquisition without thought to where property owners move. However, you might consider actively encouraging property owners to resettle in existing or emerging areas within the community by offering some type of incentive. Considerations include the effect of property acquisition on your community's tax base; the availability of resources, vacant lots, and housing; and both public and private development plans.

How One Community Did It: Grand Forks, North Dakota

In an effort to restore its tax base, Grand Forks, North Dakota used HUD CDBG funds to initiate a voucher program as an incentive to residents to resettle within the city. Under the program, residents who sell their homes to the city receive a \$15,000 voucher if they build or purchase a new home within Grand Forks, and a \$10,000 voucher if they purchase an existing home within Grand Forks. (HMGP funds cannot be used for such financial incentives.)

CHAPTER 2 — READY, SET, APPLY!

Regardless of any State's forms and specific requirements, a property acquisition application typically addresses five general areas:

- Applicant data
- Explanation of the problem and alternative solutions
- Budget
- Property inventory
- Environmental and sociological considerations

An application also has a number of attachments and enclosures.

This chapter assists you in one of two ways. On one hand, if your State has supplied you with a standard application form, this chapter provides guidance for completing that application as thoroughly as possible. On the other hand, if your State does not have a standard application form, you are welcome to use the model application found among the reproducible forms (Form II-7). The numbered items and explanations in the next section correspond to the model application.

Form II-7

Two examples of a completed model application are provided in the ToolKit (Tools II-6 and II-7). Tool II-6 is an example of a complex project that requires the highest level of detail. Tool II-7 is an example of a simpler project that requires a lower level of detail.

Tools II-6 & II-7

COMPLETE PROJECT APPLICATION

When completing the project application, remember that the most useful thing you can provide for application reviewers is complete and accurate information. If you are asked to explain or describe something, offer as much detail as possible. Use simple, concise, and complete



sentences to avoid confusion. Keep in mind that the application reviewers are not as knowledgeable of your community and its acquisition project as you are. The application is your only means for expressing your community's needs and objectives. Include and accurately label all attachments requested and any others that you think might be useful to the application reviewers.

■ Part 1: Applicant Data

- 1. FEMA ___-DR-___:** This is the disaster identification assigned by FEMA.
- 2. Applicant Name:** An applicant must be a county, city or town government; an eligible, private nonprofit organization or institution; or a recognized Native American Indian tribe or organization. Use your community's official name.
- 3. TIN:** This is your Taxpayer Identification Number. If you do not know your TIN, ask your community's financial officer.
- 4. County Name:** Use the official name of the county in which your community is located.
- 5. County Code:** If you do not know your county's code, ask your State Hazard Mitigation Officer (SHMO).
- 6. State Code:** Use your State's two-letter abbreviation.
- 7. State Legislative District:** Identify the State legislative district in which your community is located. If you do not know your district, ask your community's voter registrar.
- 8. U.S. Congressional District:** Identify the U. S. congressional district in which your community is located. If you do not know your district, ask you community's voter registrar.
- 9. FIPS Code:** The Federal Information Processing Standards Code is an identification number used to identify applicants for the Public Assistance portion of the Federal Disaster Assistance Program under Public Law 93-288. If you do not know this number, the State will complete this information for you.

- 10. Public Entity ID:** This is your community's public entity identification number, if it has one. If necessary, the State will complete this information for you.
- 11. CID:** This is your community's Community Identification Number, if it has one. If necessary, the State will complete this information for you.
- 12. Primary Point of Contact (POC):** Provide all pertinent information requested, including the POC's full name, nickname, job title, and organization (employer). List the address, telephone number, fax number and email address where the POC can be reached during normal business hours (approximately 8:30 a.m. through 5:30 p.m.). Also include directions to the POC's place of business.
- 13. Alternate POC:** Provide all pertinent information requested, including the alternate POC's full name, nickname, job title, and organization (employer). List the address, telephone number, fax number and email address where the alternate POC can be reached during normal business hours (approximately 8:30 a.m. through 5:30 p.m.).
- 14. Application Preparer:** If the person completing the application is different than the primary or alternate POC, provide requested information about the application preparer. If the person completing the application is either the primary or alternate POC, write the appropriate name in the name field and write "See Above" in the other fields.
- 15–18.** Answer these questions regarding your community's participation in the National Flood Insurance Program (NFIP).
- 19–20.** Only particular types of organizations are eligible to apply for a Hazard Mitigation Grant Program (HMGP) grant. Check the appropriate box to further identify your community.
- 21. Assurances:** This list of assurances comprises the policies an applicant should be aware of before submitting an application. All projects funded by FEMA must comply with these policies in order to maintain project funding and avoid legal prosecution. A representative of the applicant organization should initial each assurance to satisfy the State and FEMA that the community is aware of the policies and will follow them if their application is approved.

- ❑ **22. Authorized Signature:** The Chief Executive Officer (CEO) or another official representative of the community (e.g., mayor, city manager, county administrator, etc.) must acknowledge understanding and acceptance of all initialed assurances. The person who initialed the assurances can sign here.

■ Part 2: Problems and Solutions

- ❑ **23. Project Location:** This is your opportunity to explain the hazardous location of the properties the community wishes to acquire. Be sure to provide enough detail to show why these properties are in the path of damage and danger. Offer facts that support your claim, such as the Flood Zone Code, and the first floor and base flood elevations. Provide street names and the exact number and locations of the properties so reviewers can locate them on the map. Explain the terrain surrounding the project area so that the reviewers understand your project site even if they have never seen it. If possible, attach aerial photographs to illustrate your narrative.
- ❑ **24. Explanation of the Problem/Event:** Describe the most recent disaster. Clearly describe the damage caused by the disaster, citing specific facts such as the number of homes substantially damaged, the number of vehicles destroyed, the number of people injured or killed, etc. Provide a brief history of the past 25 years, citing dates of previous events and briefly describing the damage each caused. If your community has a history of natural disasters, describe any previous hazard mitigation measures. Also, attach the most recent Flood Insurance Study (FIS) of your community if one is available. If one is not available, provide documented data of damages caused by each previous event. For example, if your community suffers from flooding, include a table showing the date of each flood, the measured peak of the floodwaters at some locally documented point, and the estimated cost of damages from each event. (Tool II-6 assumes no FIS is available, and, therefore, provides a greater level of detail than is necessary if a FIS is available.)
- ❑ **25. Solutions to the Problem:** FEMA requires that you consider various mitigation alternatives and choose the best one for your community. Describe your proposed project (property acquisition) as your first alternative. Then, describe another alternative and the “no-

action” alternative. You may describe more than three if you choose. Simply photocopy and attach additional alternative pages.

For each alternative, provide a full description and cost estimate. (Include materials, labor, and equipment cost; fees; and other expenses associated with the project.) Estimate the cost of implementing and maintaining each alternative, as well as the potential future losses expected after the project is completed.

- **26. Proposed Solution:** Identify the preferred alternative (property acquisition) and explain how it benefits the declared area. Cite data provided in the description. Also explain why it is preferred over the other two alternatives. Discuss issues such as feasibility, benefits, present and future costs, and environmental effects. Describe the process you used for selecting the best solution. Identify the specialists you consulted and summarize their credentials and describe the meetings you held, the roles of local officials, and how the public was involved or showed their interest.

■ Part 3: Estimated Budget

- **27. Budget Worksheet:** Use this matrix to add all relevant estimated expenses and calculate the total estimated cost of the proposed project. If any expenses listed in the matrix do not apply to your project, leave those lines blank or use “NA” for not applicable. If you expect an expense that is not listed in the matrix, specify the expense by name and estimated cost in one of the “Other” rows (e.g., NFIP reimbursements). The matrix contains the following:
 - **Fair Market Value (FMV).** When estimating the FMV of each property proposed for acquisition, consider using its tax assessment plus 25 percent. Since most tax assessment records are not updated yearly and are not always accurate, adding an additional 25 percent gives you a more accurate estimate of the FMV. However, when determining the actual purchase price, FEMA recommends using an appraisal conducted by a professional State-certified or -licensed appraiser.

- **Appraisal.** Determine the average cost of conducting one appraisal and use it to estimate the total cost of appraising all properties being considered for acquisition. Contact two or three appraisers for verbal estimates.
- **Property Survey.** Due to environmental considerations, some properties will require historical, environmental, or hazardous materials surveys. Depending on the previous land use and history of your community, the number of properties requiring surveys will vary. Determine the average cost of a property survey. Also estimate the number of properties likely to require surveys. Then estimate the total cost of completing surveys. Contact your State's environmental agencies for help.
- **Closing.** As with any real-estate transaction, closing costs are necessary expenses. Estimate the costs of one closing and multiply it by the number of properties proposed for acquisition. Contact two or three title companies or real-estate attorneys for verbal estimates.
- **Structure Demolition.** Contact two or three contractors to determine an average demolition cost, plus debris removal, to allot for each structure. Also, estimate the number of structures you expect to demolish. Then estimate the total cost of demolition and disposal. Include cost of asbestos abatement if that hazard might exist. If your community does not plan to demolish any structures, leave this row blank.
- **Structure Relocation.** Estimate the number and average size of the structures you expect to relocate. Contact two or three contractors to determine an average relocation cost to allot for each structure. Then estimate the total cost of relocation. If your community does not plan to relocate any structures, leave this row blank.
- **Tenant relocation assistance.** Determine the average rental assistance allocation and moving expense allocation that each tenant will be entitled to. Then estimate the total amount required for tenant relocation assistance. (If necessary, use the maximum amount allotted per Form II-3.)

- **Legal fees.** Determine any legal fees that the community will incur. Will the attorney for the city or county be responsible for this project as part of his or her normal responsibilities? If not, you probably will need to hire an attorney who specializes in real-estate transactions. Contact two or three local real-estate attorneys to estimate the cost of legal fees.

- **28. Basis for FMV:** Explain the methodology that your community intends to use to determine a FMV of participating properties.
- **29. Projected source of funds:** The HMGP will cover no more than 75 percent of the cost of your project. Your community must generate the remaining funds necessary to carry out your project. Document the source(s) of those funds. Your State might contribute a portion of them.
- **30. Work schedule:** Include an estimated work schedule or project time line with your application. Provide the anticipated starting date and completion date, as well as important milestones or phases of implementation for the course of the proposed project. Include a general maintenance schedule for the open space area once the land is cleared.

■ Part 4: Property Inventory

Summarize all properties eligible for acquisition. Use this section to guide your data gathering.

- **31. Property Inventory — Summary:** List property owners' names, lot or parcel numbers, addresses, and estimated FMV. Use a numbering system to tie the summary inventory in with the individual inventory described below.
- **32. Property Inventory — Individual:** An individual property inventory must be completed for each property eligible for acquisition. You can complete much of this report using information provided by the property owner in the Property Owner Questionnaire I (Form I-2). As these reports are collected, number them (1, 2, 3...) and record them on the Property Inventory — Summary sheet. Decide if you prefer to number the reports in the order they are received or wait until all reports are received and number them in an order based on owners' names or properties' street addresses.

FEMA will use this inventory in addition to other data to calculate the benefit cost ratio (BCR) for each property. Therefore, be sure to explain all relevant information that has led the community to decide that this property should be acquired. Attach at least two color photographs (showing two different sides) of the main structure.

- ❑ **33. Property Inventory — Tenant Data:** If a property owner wants to sell a rental property, all tenants of the property must be included in the individual property inventory. If the building has only one tenant or one tenant family, record that tenant's name in the appropriate space on the individual property inventory. If the building has more than one tenant or tenant family, leave the space on the individual property inventory blank and, instead, record all tenants on this Property Inventory — Tenant Data summary.

■ Part 5: Environmental and Sociological Considerations

- ❑ **34. Matrix of Environmental and Sociological Effects:** Use this matrix to summarize the environmental and sociological concerns of each alternative your community is considering.
- ❑ **35. Agency Contacts:** Identify all State and Federal agencies that you have contacted to seek approval for your property acquisition project. At a minimum, contact your State's historic preservation office to gather information on your project area. Compose a letter to each relevant agency requesting a reply on letterhead stationery that states its official position on your proposed project. Your State might allow you to submit your application pending receipt of those letters. Check with your SHMO. If you may submit your application pending receipt of the letters, attach a photocopy of each request to your application.
- ❑ **36. Sociological Questions:** Answer each question as clearly as possible. Provide more detailed answers about issues that your community is facing. If the issue does not impact project development, explain briefly and move on.

■ Part 6: Authorized Signatures

37. Authorized Signatures: Have the project official (e.g., project team leader or sub-grant administrator) and CEO of the community sign the application.

■ Part 7: Attachments and Enclosures

38. Attachments: Clearly identify all attachments and enclosures that you send with your application. Assign numbers and titles to them, arrange them in numerical order, and create an inventory listing them by number and title. If some attachments are less than 8½" x 11" (standard paper size), securely attach them to 8½" x 11" paper to ensure nothing is lost. Neatly fold attachments larger than 8½" x 11" to about that size.

SUBMIT APPLICATION TO STATE

■ Complete application checklist.

Use the Application Checklist (Tool II-8) to complete a final internal review. Double-check to make sure you have included all attachments, enclosures, and property inventories and clearly labeled them. If you have questions or need clarification on any application requirement, check with your SHMO ***before you submit your application.***



Tool II-8

Good Idea

Before sending your application to the State, make a copy of the entire document to keep in the project office. You can use it for future reference when calling your SHMO or administering your sub-grant.

- **Submit the completed application to your State.**

Deliver your application to the State before the deadline. Try not to wait until the date of the deadline to submit your application. A few days after the official deadline, call your SHMO to ask how many applications were received and to estimate the timeframe during which applications will be reviewed and decisions made.

Good Idea

If you can, deliver your application personally. If that is unreasonable, use a mail or delivery service that “tracks” its packages. Obtain a receipt. With such an important document, the peace of mind that comes with knowing the application was received by the deadline can make it worth the extra money.

CHAPTER 3 — WHILE YOU WAIT

FOLLOW UP

A few days after the review period has ended, contact your State Hazard Mitigation Officer (SHMO). Ask him or her if your sub-grant application has been received, if it will be included in the State's grant application, and where your application ranks among other sub-grant applicants. Also, ask your SHMO whether he or she is confident about the State receiving funds from FEMA. While your State's grant application is being reviewed by FEMA, your community can take advantage of this time to prepare for receipt of funds. However, carefully determine how much preparation you do. If, after talking to your SHMO, you determine your community has a high probability of receiving funds, you may want to complete most or all the activities in this chapter. However, if your community has a low probability, you may prefer to do only some or none of them. Your decision whether to do any preparation, and how much, depends on how confident you and your SHMO are about receiving funds, the availability of your project team members, and the systems your community already has in place.



PREPARE TO RECEIVE A SUB-GRANT

■ Explore open space options.

Put together an open space workgroup and think about how your community might best benefit from the open space your property acquisition project will create. Refer to Phase IV, Open Space Management. Your workgroup can start to research your community's floodplain ordinances and land-use plans; and describe the project and surrounding areas in terms of their topography, resources, infrastructure, and development.





■ Identify a local sub-grant administrator.

Preferably the sub-grant administrator will be the project team leader. In any case, the sub-grant administrator should have experience administering federal grants or sub-grants, and if possible, be familiar with pertinent sections of the Code of Federal Regulations (CFR). If you need to hire a grant administrator, develop a job description (see Tool I-3), advertise your need, and interview candidates. Make clear to candidates that employment depends on receipt of the sub-grant.



■ Prepare for town meeting & prepare press release.

If you are awarded a sub-grant, hold a town meeting to initiate your project and issue a press release announcing the award. Take this time to complete as much of the Town Meeting Checklist (Tool I-4) as possible. You can easily begin to look for a place to hold the meeting (choose a couple in case your first choice is not available once you determine the date and time of the meeting), identify possible speakers, and prepare an agenda and presentation notes (see Phase III, Implementation, for the purpose and detailed topics of this town meeting.) See Tool II-9, *Tips for Writing an Effective Press Release*, to help you prepare a press release announcing your award and project.

Tool II-9



■ Draft contracts, policies, & procedures.

You probably will need to hire contractors for some services, such as title examinations and demolitions. You must follow federal procurement procedures, which require you to solicit competitive bids. Contact your local procurement office or, in the absence of a procurement office, financial office for guidance. Your community probably has local procurement policies already in place that you can follow. If your community does not have procurement policies in place, contact your State's procurement office for guidance.

Until your community is awarded a sub-grant, you cannot solicit bids. However, you can begin drafting bid specifications for all services your community intends to procure from consultants or contractors. To draft a bid specification:

- ❑ Identify the type of bid (e.g., cost-plus fixed-fee, fixed-unit-price, total-fixed-price, etc.). The type of bid determines the manner in which the selected contractor will be paid. Cost-plus means your community bears most of the financial risk associated with completion of services. Fixed-price means the contractor bears most of the risk. Which type you choose depends on your community's local policy.
 - ❑ Develop a scope of work. A good scope of work fully explains the bidder's responsibilities, and the standards and specifications against which the bidder's performance will be measured.
 - ❑ Identify any and all bonding, permit, and certification requirements the bidder must have.
 - ❑ Compile documentation that might be useful to bidders (e.g., maps, photographs, etc.) All documentation should be readily available to all potential bidders on an equal basis.
 - ❑ Draft general contract terms and conditions. If your community has procurement policies in place, these general terms and conditions probably exist in template form. If your community does not have terms and conditions in place, contact your State's procurement office and request examples.
 - ❑ Advertise your intent to procure services pending receipt of a sub-grant. Even though you cannot solicit bids yet, you can advertise your intent. This gives contractors an opportunity to consider whether or not they want to bid, and, if they do, plan their bids. Ensure your advertisement clearly states that you have not yet received a sub-grant.
- **Establish your community's local buyout policy by drafting policies, procedures, and ordinances regarding:**

Property acquisition criteria

In Phase I you identified criteria for choosing the properties you will acquire. Identify and explain those criteria in a way that can sustain a challenge from property owners, your State, and FEMA. They are an important foundation of your local buyout policy.

Fair market value (FMV) of property

Determine whether to base FMV on pre- or post-disaster ownership. If a property owner purchased flood-damaged property after the disaster declaration, the community cannot offer the post-disaster purchaser any more than the current fair market value of the property, even if the community plans to offer pre-disaster FMV to other owners.

Which basis you choose directly impacts the calculation of duplication of benefits (DOB). If the community chooses to offer post-disaster property value, the offers will be lower, but the community will not deduct DOB from the appraised value. Therefore, consider the effect each option will have on final settlements before determining the method that your community will use.

In communities that have suffered multiple disasters in a short time span, property owners might have had difficulty completing repairs before suffering further damage. In those cases, consider offering the FMV of the properties at the time that their values would be highest. For example, if the property has been damaged by two events and no repairs have been made, consider offering the FMV prior to the first disaster. But if the property was repaired and improved after the first disaster, consider offering the FMV from after the first disaster but before the second.

The two most accepted means of determining FMV are by independent appraisal or by tax assessment. Since tax assessments are not completed every year, they usually are lower than the true value. Appraisals are more accurate and factually based. A licensed or certified appraisal reviewer should review all appraisals to ensure they comply with the Uniform Standards for Appraisals.

Appraisals

Professional appraisers can estimate the FMV of a damaged property by inspecting the property, viewing similar properties in similar neighborhoods, checking building permit data, and reviewing receipts for recent improvements. Some property owners might disagree with the first appraisal and want a second opinion or opportunity to challenge the appraisal. If your community chooses to accept second appraisals, establish a policy and timeframe for their conduct. Most communities

require property owners to pay for a second appraisal and second appraisals to meet the same guidelines as the first. Some communities require property owners to choose from a list of pre-selected appraisers in the area, or have identified qualifications a selected appraiser must meet, such as being licensed or certified by the State.

Appeals process

Determine procedures for resolving conflicts that might arise between property owners and the community. Design an appeals process whereby property owners can challenge the FMVs of their properties, DOB or other deductions, and the amounts of reimbursements for repairs. Your procedures should address how the appeals must be submitted, who will receive them, who will evaluate them, and what criteria will be used to evaluate them.

Property taxes

Determine when the community will assume responsibility for property taxes. Some communities require the property owner to pay property taxes through the closing date on the sale of the property. Other communities only require property owners to pay through the date of the disaster event or declaration. Reimburse property owners on a prorated basis for taxes already paid. When determining your policy, consider how much your community can afford to lose from that year's taxes.

Amount of acreage per property to be acquired

Determine the average amount of money your project can afford to spend for each property in order to purchase a residence or business at a FMV and still acquire the maximum number of eligible properties. Consider the acreage that amount of money is likely to buy. Also consider whether eligible properties can be purchased as contiguous lots. Avoid overspending on land that is already being used in compliance with open-space regulations. Consider acquiring a conservation easement instead of a deed to the property.

Relocation

Describe your criteria for relocating structures (e.g., the types and condition of structures). Also describe any incentive you might offer to owners who relocate within the community.

Good Idea

If the property owner who voluntarily sold his or her property does not want to relocate a suitable structure, offer it to a charity (e.g., Habitat for Humanity or a local group fighting domestic violence that can use it for a shelter) or use it as a local government building (e.g., a library or visitors center). Negotiate relocation responsibilities and costs on a case-by-case basis. Remember, the structure must be relocated outside the hazard area.

Demolition

Define requirements for demolition contractors regarding the removal and disposal of structures and hazardous materials, such as asbestos, lead paint, and utility and septic tanks.

Salvaging (what may and may not be removed from property)

Salvaging is another somewhat controversial issue because communities and property owners often disagree on what affects the FMV of the property, and thus is included in the final sale. Therefore, develop a salvage policy that addresses removable and potentially salvageable fixtures, such as doors, windows, lighting units, and trimming. Communities often use the conduct of the appraisal as a benchmark for the removal of any fixture from a property. Some do not allow the removal of any fixture in place during the appraisal. Others allow the removal of fixtures, but deduct from the offer the appraised value of each fixture removed. Before determining your policy, consider how the property will be used after it is acquired. If it simply will be destroyed, consider that property owners might want salvaging rights. Even if the community plans to resell any of the structures, it might smooth negotiations if property owners can salvage before the appraisal so that no items of value that they plan to remove would be in question. Also consider possible health concerns related to salvaged materials, and who will be responsible for removal of debris.

Date the property must be vacated

Residents should vacate the property on or before the date of closing. Be as precise as possible when stating when residents must vacate. If your community intends to give property owners some degree of flexibility, establish specific conditions. Remember, as a rule, the property must be cleared within 90 days of closing, so your policy must be contained within that timeframe.

Mobile homes

Determine whether your community will acquire mobile homes, and if so, what restrictions will exist. In making your decision, consider how mobile homes in your area are generally taxed, and whether most mobile-home owners also own their homepad. Also determine whether mobile homes will be considered an acceptable replacement housing option.

Decent, safe, and sanitary

Determine what major systems or conditions will satisfy the community's determination of decent, safe, and sanitary replacement housing.

■ Draft documents requiring the property owner's signature.

These documents are necessary for implementation of a property acquisition project. Your State probably has templates or examples of many of these. Ask your SHMO. If no templates are available, samples of each of the following are included among the reproducible forms.

- ❑ **Offer letter** (Form II-8). The offer letter contains specific instructions to the property owner for participation in the project, and two enclosures. The enclosures are a statement of determination of fair compensation, which states the FMV of the property less any DOB; and an Offer to Sell Real Property, which is the legal offer from the property owner to the community to sell the property for an agreed-on price.

Form II-8

- Form II-9* **Statement of Voluntary Participation** (Form II-9). This statement documents the property owner's understanding of the voluntary nature of property acquisition.
- Form II-10* **Affidavit** (receipt of structural repair assistance) (Form II-10). The affidavit captures DOB-related data.
- Form II-11* **Exhibit A (Restrictive Covenants)** (Form II-11). This exhibit is the restrictive covenants that must be attached to the deed to every property acquired.
- Form II-12* **Exhibit B (Restrictive Covenants)** (Form II-12). This exhibit is the restrictive covenants that must be attached to every easement acquired.
- Form II-13* **Tenant Relocation Assistance Application and Worksheet** (Form II-13). This worksheet helps you determine a tenant's eligibility for assistance.
- Form II-14* **Hazardous Materials Property Survey/Individual Property Survey Form** (Form II-14). Hazardous materials liability is a concern in any real-estate transaction. This survey provides assurance to the community and protection to both the community and the property owner that any hazardous materials issues have been addressed.



- **Periodically follow up with State until a decision regarding funding is made.**

If your community's acquisition project has been approved and funded, continue to Phase III.

If your project has not been approved and funded, consider other possible sources of assistance and/or appeal the decision.

INTRODUCTION



Congratulations! Your sub-grant is approved!

Your State Grant Administrator will send you a sub-grant agreement, which fully describes the scope of work necessary to implement your acquisition project. Simply defined, scope of work is what your State expects you to do to carry out your acquisition project as approved and funded by the State and the Federal Emergency Management Agency (FEMA). Adhere to the scope of work, and *do no more or no less than what it requires of you*. The agreement also might reference other documents rather than provide them within the agreement itself. Such referenced documents carry the same weight as if they were included in full.

CONTENTS OF THIS PHASE

Phase III guides you through the actual acquisition of properties as well as management of your sub-grant. It comprises five chapters:

- ❑ **Chapter 1 — Before You Do Anything Else.** Chapter 1 identifies your first steps of implementation, ensuring you start out right.
- ❑ **Chapter 2 — Set Up Your Sub-Grant Administration System.** Chapter 2 guides you through setting up a documentation filing system that creates a framework for organizing your project.
- ❑ **Chapter 3 — Finish What You Started.** Chapter 3 guides you through preliminary steps (some of which you might have started in Phase II) that prepare you to acquire properties. This chapter covers finalizing and enacting all relevant policies and ordinances, developing and issuing bid packages, and conducting a town meeting to announce your sub-grant award and explain how the project will work.
- ❑ **Chapter 4 — Acquire Those Properties!** Chapter 4 provides a plan to follow for acquiring properties. Use it as a guide to follow from your first meeting with a property owner through every step necessary to reach your goal of newly acquired open space.

- ❑ **Chapter 5 — Conduct Sub-grant Closeout.** Chapter 5 helps you finalize your project activities and prepare your files for audit.

- ❑ Part 1 of the **Toolkit** contains the following tools referred to in this phase:
 - Tool III-1, Allowable and Unallowable Costs
 - Tool III-2, Sample Spreadsheet: Tracking the Use of Funds
 - Tool III-3, Sample Notice of Relocation Eligibility
 - Tool III-4, Sample 90-Day Notice to Vacate
 - Tool III-5, Sample 30-Day Notice to Vacate
 - Tool III-6, Sample Agenda
 - Tool III-7, Sample Presentation Notes
 - Tool III-8, Sample Request for Bids
 - Tool III-9, Sample Reminder of Appraisal
 - Tool III-10, Sample Official DOB Determination Request

- ❑ Part 2 of the **Toolkit** contains the following forms:
 - Form III-1, Summary of Property Owner Case Files
 - Form III-2, Summary of Tenant Case Files
 - Form III-3, Case File Status Chart (Property Owner)
 - Form III-4, Communication Log
 - Form III-5, Case File Status Chart (Tenant)
 - Form III-6, Appointment Sign-up Sheet
 - Form III-7, What Should I Bring to My Individual Appointment?
 - Form III-8, Monthly Project Status Report
 - Form III-9, Quarterly Financial Status Report

- Form III-10, Meeting Checklist for Property Owners
- Form III-11, Preliminary DOB Research Request
- Form III-12, Meeting Checklist for Tenants
- Form III-13, Project Completion Certificate

CHAPTER 1 — BEFORE YOU DO ANYTHING ELSE . . .

COMPLETE ACTIVITIES FROM PHASE II, CHAPTER 3

Chapter 3 of Phase II suggests activities you could do to prepare for receipt of your sub-grant. If you have not yet completed any of those activities, complete them now. They include:

- Identifying your sub-grant administrator
- Preparing for a town meeting and preparing a press release
- Drafting contracts for services
- Drafting local policies and procedures

CAREFULLY REVIEW YOUR SUB-GRANT AGREEMENT

Read your entire sub-grant agreement. If you have any questions or need copies of referenced forms and documents, contact your local procurement office or your State Grant Administrator. At this stage, your primary concern is to understand the sub-grant agreement and your community's rights and responsibilities. Do not implement your project until you fully understand your obligations.

GATHER COPIES OF APPLICABLE REGULATIONS AND PROCEDURES

The following regulations found in the Code of Federal Regulations (CFR) are relevant to sub-grant administration:

- 44 CFR, Parts 13, 14, and 206
- 49 CFR, Part 24

Your State also has regulations and procedures covering the administration of sub-grants. Acquaint yourself with them and keep them on hand to refer to throughout implementation. If you do not have copies, contact your State Grant Administrator.

CHAPTER 2 — SET UP YOUR SUB-GRANT ADMINISTRATION SYSTEM



Good Idea

If possible, given your community's existing computer systems, use electronic spreadsheets and databases to maintain records. If your community does not already have an electronic financial management system, consult with your State Grant Administrator. Your State should be able to suggest software products or provide guidance on what to look for in a product.

SET UP YOUR FINANCIAL RECORD-KEEPING SYSTEM

Because the funds for your sub-grant originate with FEMA, a Federal agency, you must keep careful financial records. Consult with your community's finance or procurement office, or your State Grant Administrator, for guidance if necessary.

Depending on your community's financial management system, your first step is to either establish separate charge codes or open separate non-interest-bearing checking accounts exclusively for managing your property acquisition project funds. Keep matching funds (State, local, or private) separate from FEMA funds.

A good financial record-keeping system has these characteristics:

- Complies with Federal grant management guidelines as dictated by the Office of Management and Budget (OMB)

- Documents and “tracks” all funds originating from FEMA
- Documents and “tracks” all funds and in-kind services received from matching sources (e.g., State and local match, including Community Development Block Grants)
- Documents and “tracks” all monies paid out and the sources of monies paid out (e.g., Federal or non-Federal share)
- Has internal controls governing the management of funds and records
- Is regularly audited by an independent auditor

See below for further explanations of these characteristics.

■ Complying with OMB guidelines

OMB outlines general principles of allowable costs using Federal funds. To comply with OMB guidelines, be aware of the following.

Allowable costs

Generally, allowable costs are costs that are:

- Necessary and reasonable for performance and administration of the sub-grant
- Allocable to the sub-grant
- Authorized or otherwise permitted under State and local laws and regulations
- Consistently applied as either a project or administrative cost

Tool III-1

Refer to Tool III-1, Allowable and Unallowable Costs, for a general understanding of OMB guidelines. If you have questions about a cost that is not listed, contact your local procurement office or State Grant Administrator for guidance.

A community may not spend sub-grant funds on an item that was not included in its budget or scope of work without prior approval from the State and FEMA.

Allocable costs

Allocable costs are the costs of goods and services necessary to conduct required sub-grant activities, and, therefore, are properly allocated to the sub-grant and paid for by sub-grant funds. Your project costs (e.g., appraisal, title examination, relocation, and demolition costs, etc.) are allocable costs.

Reasonable costs

Reasonable costs are practical expenses that any prudent person in similar circumstances would assume. Expenses are considered reasonable if they are:

- Ordinary and necessary for the management of sub-grant activities
- Within the confines of Federal, State, and local laws and regulations
- Based on market prices for comparable goods and services

Direct versus administrative costs

- Direct costs are project costs allocable to a specific cost objective. Your project costs are direct costs.
- Administrative costs are the general costs to the community to coordinate the project and meet Federal reporting and record-keeping requirements.

Cost overrun and underrun

- A cost overrun is an unanticipated increase in the total cost of the project.
- A cost underrun is an unanticipated decrease in the total cost of the project.

A cost overrun or underrun often is the result of the difference between an estimated cost and an actual cost.

Change in scope

A change in scope often results in a change of cost. Only your State, with FEMA's approval, can authorize changes in scope and any associ-

ated changes in costs. *Immediately notify your State Grant Administrator if a change in scope might occur. Do not perform any activities that change the scope of your sub-grant without the expressed, written approval of your State Grant Administrator.*

Program income

Your acquisition project might generate program income before you closeout your sub-grant. Program income can result from the sale of salvage or the lease of acquired property. Unless the State directs otherwise, any income generated before the sub-grant period ends must be used to defray the overall costs of the project. This in turn will reduce the total sub-grant funding.

For example, if the total cost estimate for a project is \$12,000, but salvage is sold for \$2,000 before sub-grant closeout, that \$2,000 is program income. Consequently, total cost for the project would be \$10,000 (\$12,000 minus \$2,000). Therefore, the Federal share for this project would be no more than 75 percent of \$10,000, or \$7,500. The community would be responsible for at least 25 percent, or \$2,500.

Once the sub-grant is closed out, any income generated by the property belongs to the community as titleholder.

■ **Documenting and tracking project funds**

Ensure that your financial management system can document and track all the funds you acquire and spend for your property acquisition project. Make sure that your system allows you to *track FEMA funds separately from local match funds*. At project closeout you must document that non-Federal funds were used to pay for at least 25 percent of the total project cost.

To best track project funds, keep separate charge codes or non-interest-bearing checking accounts for FEMA and matching funds. Every time you deposit or withdraw from one of these accounts, document it on a spreadsheet or some other type of log. For deposits, track the sources of the funds, means in which they were provided (cash, check, etc.), and dates they will be available. For withdrawals, track the sources of funds;

to whom and why they were disbursed; dates of payment; and check numbers. Also document the value of in-kind services. A sample spreadsheet that tracks funds can be found in the Toolkit (Tool III-2).

Tool III-2

■ Managing funds and records

Establish internal controls for managing funds and records. For guidance, consult with your community's finance or procurement office, or your State Grant Administrator. Internal controls usually begin by limiting access to funds and financial records to only a few authorized individuals.

■ Auditing

The Federal Government requires having project funds regularly audited by an independent auditor. Such audits also are in your best interest. Consider asking the Certified Public Accountant who completes your yearly or bi-yearly audits to audit your property acquisition funds in accordance with the Single Audit Act. Depending on the size of your community and the amount of Federal funds received, use the following Federal guidelines as the minimum audit requirements:

- If you expend \$300,000 or more in Federal funds in any 1 fiscal year, you must have a single audit completed.
- If you receive between \$25,000 and \$300,000 in Federal funds in any 1 fiscal year, and choose not to have a citywide or county wide single audit, you must conduct individual grant audits.
- If you receive less than \$25,000 in Federal funds in any 1 fiscal year, you are exempt from complying with Federal audit requirements. However, you are still subject to State and local auditing requirements.

SET UP YOUR PROPERTY ACQUISITION PROJECT FILING SYSTEM

Good Idea

Use classification folders that are divided into several sections to organize your documents within each file.

■ Sub-grant file contents

Keep the following in your sub-grant file:

- Sub-grant agreement and any amendments to it
- Financial records including copies of each quarterly financial status report and all funds documentation and tracking
- Commitment letters (from non Federal sources)
- Schedule depicting estimated and actual milestones
- Copies of reports
- Correspondence with your State
- Property site inventory as updated from your sub-grant application, identifying properties actually being acquired
- Summary of property owner case files including the following information about each:
 - Property owner name
 - Property address
 - Fair market value (FMV)
 - Duplication of benefit (DOB) deduction
 - Purchase price (FMV less DOB deductions)

- Case file contents log (to be checked off as completed for each property)
 1. Statement of Voluntary Participation
 2. Affidavit
 3. Determination of value (e.g., preliminary assessment and final appraisal)
 4. Income Status Worksheet (if applicable)
 5. Offer Letter
 6. DOB settlement sheet, provided by FEMA, and copies of receipts for repairs
 7. Proof of ownership and a copy of title insurance policy provided by the title company
 8. Deed with restrictive covenants (or easement with restrictive covenants)
 9. Closing statement, provided by title company
 10. Copy of each check written per the closing statement
 11. Verification of relocation or demolition

A sample Summary of Property Owner Case Files is provided in the Toolkit (Form III-1).

Form III-1

- Summary of tenant case files including the following information about each:
 - Tenant name
 - Property address
 - Case file contents log (to be checked off as completed for each tenant)
 1. Letter of preliminary notification
 2. Letter of relocation assistance eligibility

3. 90-day notice to vacate, if applicable
4. 30-day notice to vacate, if applicable
5. Income Status Worksheet, if applicable
6. Tenant Relocation Assistance Application and Worksheet
7. Receipts
8. Copy of each relocation assistance check written

Form III-2

A sample Summary of Tenant Case Files is provided in the Toolkit (Form III-2).

Contractor file(s) contents:

- Contracts
- Invoices
- Copies of checks or other payment documentation
- Correspondence
- Other

■ **Property owner case file contents**

Set up a file folder for each eligible property owner. Keep a Property Owner Status Chart and a Communication Log inside the front cover. Summarize the communication every time a project team member meets with or speaks to a property owner. A sample Case File Status Chart for property owners and a sample Communication Log can be found in your Toolkit (Forms III-3 and III-4). By closing, each property owner case file should contain:

Forms III-3 & III-4

- Offer Letter. (See Form II-8). For each property owner, prepare a letter signed by a community official that states the determined value of the property and instructions to the owners for conducting negotiations.

- ❑ Determination of value (preliminary and final). The preliminary determination is the value of the property as identified on your application. The final determination is the price your community is willing to pay for the property, which you attach to the offer letter. (See Form II-8.) The final determination of value is the FMV, as determined by a State-certified or -licensed professional appraiser, less any DOB.
- ❑ Statement of Voluntary Transaction. (See Form II-9). Each owner must sign a statement indicating that he or she understands the buyout program is voluntary and he or she can decline to sell at any time prior to closing.
- ❑ Affidavit. (See Form II-10). Each property owner must sign a statement disclosing all Federal disaster assistance benefits received in conjunction with the event leading to this property acquisition.
- ❑ Proof of DOB (settlement sheet provided by State). The settlement sheet identifies any DOB that must be deducted from the FMV and any payments due to the U. S. Small Business Administration (SBA) at closing. Attach copies of receipts for repairs to the settlement sheet.
- ❑ Proof of ownership. The title company conducting the title search should provide a letter indicating who the legal owner(s) is, if any outstanding liens exist, copy of title insurance policy, etc.
- ❑ Deed with restrictive covenants (or easement with restrictive covenants). Each deed filed by the community for the purchase of property using FEMA or matching funds must include the restrictive covenants discussed in Phase II (Forms II-11 and II-12).
- ❑ Closing statement. The real-estate attorney should provide a copy of the closing statement indicating the flow of funds from the market value price to the proceeds the owner received.
- ❑ Copies of checks. Keep a copy of each check written to the property owner as verification that he or she was paid in accordance with the closing statement.

- ❑ Verification of relocation or demolition. The best evidence is a picture of the vacant lot with either an invoice from the demolition contractor marked “paid in full” or a copy of the check written to the contractor.

Also include other items, such as questionnaires, correspondence, appeals, special approvals, and State-specific documentation in the case file.

■ Tenant case file contents

As with each property owner, set up a file folder for each eligible tenant and maintain a Case File Status Chart and a Communication Log. A sample Case File Status chart for tenants is included in the Toolkit (Form III-5). By closing, each tenant case file should contain:

Tool III-3

- ❑ Letter of Notification (see Tool II-3). As soon as you notify property owners that their properties are eligible for acquisition, notify any tenants of those properties that the property might be sold and advise them of their rights, responsibilities, and options. Keep a copy of the letter and proof of delivery in the case file.

Tool III-4

- ❑ Notice of relocation eligibility. (See Tool III-3 for a sample.) This notice informs tenants that their landlord has accepted an offer to sell their home and, consequently, they are now eligible for relocation assistance benefits. Keep a copy of the letter and proof of delivery in the case file.

Tool III-5

- ❑ 90-day notice to vacate. (See Tool III-4 for a sample.) Send a 90-day notice to vacate to any tenant still residing in a property being acquired immediately after the property owner accepts the community’s offer to purchase (the same day if possible). Keep a copy of the letter and proof of delivery in the case file.
- ❑ 30-day notice to vacate (See Tool III-5 for a sample). Send a 30-day notice to vacate to tenants as applicable. Keep a copy of the letter and proof of delivery in the case file.

- Tenant Relocation Assistance Application and Worksheet. (See Form II-13.) This application/worksheet, to be completed at the tenant's individual appointment, determines whether the tenant is eligible for relocation benefits and, if so, how much. Give the tenant a copy and keep a copy of the completed application/worksheet in the tenant case file.
- Receipts. Tenants must submit proof of moving expenses and decent, safe, and sanitary replacement housing. Proof can take the form of receipts from a moving company, copies of utility bills, copies of leases, etc.
- Copies of checks issued. Keep a copy of each check written for relocation or moving assistance.

Also include other items, such as questionnaires, copies of correspondence, appeals, special approvals, and State-specific documentation.

BUDGET YOUR ADMINISTRATIVE COSTS

■ Determine your eligible amount.

The total amount of your sub-grant determines the total amount you will receive for administrative costs. Determine your administrative funding as follows:

- For the first \$100,000 of the sub-grant award, budget 3 percent (.03)
- For the next \$900,000, budget 2 percent (.02)
- For the next \$4,000,000, budget 1 percent (.01)
- For any amount over \$5,000,000, budget ½ percent (.005)

For example, if you are awarded a \$500,000 sub-grant, budget your administrative costs as follows:

Project Costs	Scale	Administrative Costs
\$500,000	\$100,000 X .03	\$3,000
(\$500,000 - \$100,000) \$400,000	\$400,000 X .02	\$8,000
0	\$0 X .01	\$0
0	\$0 X .005	\$0
Total Administrative Costs		\$11,000

The total allowable administrative cost using FEMA funds is \$11,000.

If you are awarded \$6,000,000, budget your administrative cost as follows:

Project Costs	Scale	Administrative Costs
\$6,000,000	\$100,000 x .03	\$3,000
(\$6,000,000-\$100,000) \$5,900,000	\$900,000 x .02	\$18,000
(\$5,900,000 - \$900,000) \$4,000,000	\$4,000,000 X .01	\$40,000
(\$5,000,000 - \$4,000,000) \$1,000,000	\$1,000,000 X .005	\$5,000
Total Administrative Costs		\$66,000

The total allowable administrative cost using FEMA funds is \$66,000.

■ Document and track all administrative expenses.

Tracking and documenting your administrative expenses are good accounting practices. Forms of documentation include:

- Timesheets and either copies of payroll checks or payroll receipts
- Receipts for supplies and equipment purchased, and either copies of checks or other payment documentation
- Inventory of equipment, and either copies of checks or other payment documentation

CHAPTER 3 — FINISH WHAT YOU STARTED



IMPLEMENT POLICIES & PROCEDURES

Now that you have actual sub-grant funding, you might need to revise your draft policies and procedures. Also, determine whether all property owners who originally signed up still want to participate. Discuss any potential changes to your project as it is identified in your sub-grant with your State Grant Administrator. *Do not implement any changes to your project without first seeking approval from your State.* Then, finalize your draft policies and procedures, develop any necessary ordinances and resolutions, and submit all documents to your State for approval.

Once your State approves your policies, procedures, etc. implement them as you would any other. Do not begin your property acquisition project before you have enacted all policies, procedures, etc. that will affect the project. Publicize those policies, procedures, etc. and ensure that all participating property owners, tenants, and others who might be directly affected are aware of them.



SUBMIT PRESS RELEASE & CONDUCT TOWN MEETING

■ Prepare to conduct a town meeting.

The purpose of this meeting is threefold: announce award of the sub-grant; explain policies, procedures, etc. governing the property acquisition project; and begin acquisition proceedings.

You might have started preparing for this town meeting as suggested in Phase II. If you have not yet begun preparing for this town meeting, do

so now. Refer to the Town Meeting Checklist (Tool I-4). In addition to completing the checklist:

- ❑ Update/finalize milestones. Now that you have been awarded a sub-grant and are prepared to begin your property acquisition project, adjust your time line and milestones to reflect the current date, resources, and expected participants.
- ❑ Establish blocks of time for individual appointments with property owners. After this town meeting, the community will begin negotiations with property owners. Since details of the negotiations are specific to each property owner, meeting with them individually allows the project team to more easily resolve questions and concerns, ensure understanding of responsibilities, and obtain property owners signatures on all necessary documents. Select blocks of time when project team members are available and plan to have “sign-up” sheets at the town meeting so property owners can schedule appointments.
- ❑ Develop “sign up” sheets for property owner appointments. Plan approximately one hour for each appointment. Be sure that the time, date, location, and name of the project team member who is conducting the meeting are all clearly marked on each sign-up sheet. A sample sign-up sheet is provided as Form III-6.
- ❑ Anticipate individual appointments with tenants. Explain that you will notify each tenant to schedule an individual appointment as you conclude negotiations with the rental property’s owner. During the appointment, answer the tenant’s questions, address the tenant’s concerns, and help the tenant complete a relocation assistance application.

Form III-6

Good Ideas

- 1 Make evening and/or weekend appointments available for property owners and tenants who cannot meet during the day.
- 2 If your community is acquiring many properties and will have many individual meetings, use pre-printed, bound calendars with hourly appointment slots as sign-up sheets. Provide one calendar for each project team member who will be conducting meetings.
- 3 If possible, assign project team members to meet with either property owners or tenants, not both. They will be better able to focus on the issues concerning their audience and will develop extensive knowledge of their part of the process more quickly.

■ Conduct town meeting.

During this town meeting:

- Announce award of the sub-grant
- Explain and provide copies of policies, procedures, etc. regarding:
 - Property acquisition criteria
 - Fair market value (FMV)
 - Appraisals
 - Property taxes
 - Amount of acreage per property to be acquired
 - Relocation
 - Demolition

- Salvage (what the owner may and may not remove from the property)
 - Vacating property
 - Mobile homes
 - Tenants
 - Appeal process
- Explain milestones. Make the property owners and tenants aware of project goals. Understanding the overall time line and knowing certain milestones clarify how their responsibilities affect the rest of the project, and encourage treating deadlines seriously. Also, emphasize all tasks that must be completed before any buyout checks will be issued, and solicit their support.
- Review the voluntary nature of acquisition. Remind property owners that participation in the property acquisition project is voluntary, and all participants can withdraw from participation at any time up until closing. Also remind them that, since they are choosing to sell their homes, they are ineligible for relocation assistance. (See Tool I-7.)
- Review property owners' obligations. Re-emphasize that the property owners' full cooperation and participation will help the process move more quickly and smoothly. (See Tool I-7.)
- Duplication of benefits (DOB). Remind property owners that certain funds from other sources, such as some disaster assistance and insurance will be counted toward the purchase price of their home unless they can document that the money was spent on approved home repairs. Emphasize the importance of retaining all receipts and disclosing all previously collected benefits. Bring copies of fact sheets distributed during the town meeting in Phase II to distribute as necessary. (See Forms II-2, II-3, and II-4.)
- Request that property owners sign up for appointments. Explain that the project team would like to meet individually with each eligible property owner and tenant to address individual concerns and complete necessary forms. Distribute Form III-7 (What Should I Bring to My Appointment?) and copies of the following items to property

Form III-7

owners and tenants, as appropriate. They will be completed and signed during appointments.

- Statement of Voluntary Participation
 - Affidavit
 - Income Status Worksheet (if applicable)
 - Tenant Assistance Application and Worksheet
- Compile minutes. Designate a recorder to compile the minutes of the meeting.

Tools III-6 & III-7

The Toolkit contains a Sample Agenda (Tool III-6) and Sample Presentation Notes (Tool III-7).



PROCURE NECESSARY SERVICES

Special Note

To comply with FEMA's requirements, your State will not approve percentage-of-cost contracts, or any contract where payment for work is contingent on Federal reimbursement. Any work performed under either type of contract will be ineligible for Federal and State funding. Firm-fixed-price, and time and material contracts generally are acceptable.

■ Develop bid packages.

The bid package is a bidder's main source of information about the community's wants and needs. Finalize any draft specifications you have started, revising them per your sub-grant as necessary, and submit them to your State for approval. Include the final bid specifications

(after they have been approved by your State), any standard bidding forms (if applicable), and any supplemental information helpful to bidders in the final bid package. Be sure to include the date and time bids are due.

■ Issue bid packages.

Make the full bid packages available at a central location for review by prospective bidders. Advertise the request for bids in local newspapers, on community bulletin boards, and through announcements at local professional association meetings. A sample Request for Bids can be found in the Toolkit (Tool III-8).

Tool III-8

Good Idea

Consider allowing prospective bidders to photocopy the bid package, or providing a photocopy of the package for a small fee that is returned upon receipt of a bid.

How One State Did It: The State of Minnesota

The State of Minnesota requires that sub-grantees give preference, to the extent practical, to local organizations, firms, and individuals. The State encourages local contracting officers to advertise in the local area, subdivide large projects into smaller contracts when feasible to increase the likelihood of finding a qualified local contractor, and stress in the bid announcement and package that contractors who purchase resources and hire employees from the mitigation project area will receive first priority.

- **Evaluate bids received.**

Open the bids on the date and at the time announced in the bid package and request for bids. You should accept the lowest, technically acceptable bid. However, you may reserve the right to evaluate the bids more carefully before entering into a contract. If you choose to accept a bid other than the lowest one, you must justify your choice. Check with your local procurement office or State Grant Administrator.

- **Award contracts to successful bidders.**

Once a bid is selected, create a file for the contractor and award the contract. Keep a copy of the contract and all invoices in the contractor's file. Also keep a list of all bidders with proof that the project was given to the lowest bidder or justification why it was not.

CHAPTER 4 — ACQUIRE THOSE PROPERTIES!

General Note

You are required to submit periodic reports of the status of your project and funds you have expended. If your State does not have forms to provide to you, use the Monthly Project Status Report (Form III-8) and Quarterly Financial Status Report (Form III-9) provided in the Toolkit.

Forms III-8 & III-9

MEET WITH PROPERTY OWNER

- **Confirm appointments with property owners.**

Depending on the number of properties you plan to acquire, you might schedule appointments up to six weeks or more in advance. Since much of your community will be focused on rebuilding, some people are likely to forget their appointments, especially those that are weeks away. Therefore, call and/or send a reminder letter to confirm appointments.

- **Follow up with eligible property owners who did not sign up at the town meeting.**

Participation in a property acquisition project is often mutually beneficial for the community and the property owner; encourage everyone who is eligible to participate. If some people did not attend or sign up for an appointment at a town meeting, investigate the situation. Elderly or physically challenged people might not have signed up simply due to problems with transportation; others might be concerned about finding replacement housing. If the project team can help resolve their concerns (such as by providing transportation or meeting at the property owner's home, helping them find housing), the property owners might be more than willing to participate.



■ Conduct meeting with individual owners.

The purpose of the meeting is to ensure that each property owner understands all policies and restrictions that affect the acquisition of his or her property, and to collect any missing data. The more you verify at this meeting, the more likely your documents will be complete and accurate, and your property owners will be satisfied. The Toolkit contains a checklist (Form III-10) to help you prepare for and conduct the meeting. During the meeting:

- Ensure property owner understands property acquisition in general, duplication of benefits (DOB), and all community policies and procedures.
- Confirm information previously gathered.
- Obtain property owner's signature on Statement of Voluntary Participation and Affidavit.
- Ensure property owner correctly completes an Income Status Worksheet (if applicable).
- Collect receipts and attach them to the Affidavit.
- Schedule the appraisal and ensure property owner understands the community's policy regarding second appraisals.
- Request the property owner to complete and return the hazardous materials property survey (Form II-14) by the required date. Provide a self-addressed, stamped envelope. Emphasize the date the completed survey is due back to you.

When you are finished, remember to document your meeting in the property owner's case file.

■ Follow up with individual property owners.

- Remind property owner of scheduled appraisal 24 to 48 hours beforehand. A sample reminder letter can be found in the Toolkit (Tool III-9).

Tool III-9

- Remind property owner to return hazardous materials property survey, as necessary.
- Meet with property owner to discuss the completed hazardous materials property survey and abatement of hazardous materials, as necessary.

CONDUCT TITLE SEARCH & APPRAISAL

Conduct a title search for each property to ensure that:

- The owner selling the property is also the titleholder
- The title is clear at the time of sale and has no mortgages, outstanding liens, incompatible easements, or other encumbrances to the property

Also have the property appraised by an independent appraiser to determine the fair market value (FMV). Use this appraisal, subtracting any DOB, to determine the purchase price offered to the property owner.



DETERMINE DUPLICATION OF BENEFITS

■ Develop and submit preliminary DOB research request.

Develop a Preliminary DOB Research Request form with the following information:

- Property owner name
- FEMA control number or Social Security Number if FEMA control number is not available
- Address of damaged property
- Telephone number (both day and evening) where property owner currently can be reached



- National Flood Insurance Policy (NFIP) policy number
- Five-digit NFIP company code
- Insurance agent's name and telephone number
- Indication whether any repairs have been made

Submit the completed form to your State. Your State and FEMA will use this information to begin compiling DOB determinations for your property owners. However, they will not send you an official DOB settlement sheet for any property owner without an official determination request. A sample Preliminary DOB Research Request form is provided in the Toolkit (Form III-11).

Form III-11

■ **Submit request for official DOB determination.**

When closing on a group of properties, compile any new DOB data for those properties and submit an official letter of request for determination for those specific properties to your State. The official DOB determination request should follow these guidelines:

- Use official community letterhead signed by an authorized agent. (If the agent is a private contractor hired to oversee the closing, enclose a letter signed by a community official granting the agent authority.)
- Include the following or similar disclaimer: "The disaster assistance award information will be used only for the purpose of avoiding duplication of benefits for a property acquisition project."
- For each property to be acquired and listed on the Preliminary DOB Research Request form identify the FMV as agreed to by the property owner. (This value should be the result of the appraisal and any negotiations with the property owner.)
- For each property owner, enclose a signed Affidavit with attached receipts.

A sample official DOB determination request can be found in the Toolkit (Tool III-10).

Tool III-10

■ Obtain DOB settlement sheets.

Your State will provide a settlement sheet for each property owner. The Settlement Sheet identifies all deductions and credits applicable to the purchase price. The property owner must sign the settlement sheet at closing. Closing cannot proceed until all claims have been settled.

MAKE OFFER TO PROPERTY OWNER

Using information from the DOB settlement sheet and appraisal, finalize an offer letter for each property owner. The offer letter should include:

- A purchase price for clear title to the property
- A determination of compensation
- A statement that the acquisition is voluntary
- An explanation of the property owner's right to appeal



■ Distribute notice of relocation eligibility to tenants.

If you make an offer to the owner of a rental property, immediately notify the tenants of that property that they might be eligible for relocation assistance. If possible, send notices of relocation eligibility to tenants (see Tool III-3) the same day you send the offer letter to the owner.

Good Idea

Send offer letters by certified mail or some other secured means that provides tracking and proof of delivery. Also maintain proof of delivery records for each property owner.



PROPERTY OWNER ACCEPTS OFFER

At this point, the property owner must decide whether or not to sell his or her property for the purchase price the community has offered. If the owner accepts the community's offer, proceed. If the owner rejects the offer and wishes to terminate negotiations, stop closing proceedings on that property. If the owner submits an appeal, stop closing proceedings pending the resolution of the appeal.

■ Follow up with property owners, as necessary.

Remember to contact property owners with the answers to any questions you could not answer at the individual meeting. Also, schedule a time to inspect the property. Encourage them to attend the inspection to review the property and answer any questions.

■ Inspect property.

When the offer letter has been executed, inspect the property to:

- Ensure hazardous materials per the Hazardous Material Property Survey/ Individual Property Survey Form have been abated
- Ensure fixtures included in the appraisal have not been removed

■ Finalize deed (or easement) restrictive covenants.

Per the assurances on your application, all deeds or easements must place permanent restrictions on the property (see Form II-11). Restrictions include:

- The property shall be dedicated and maintained in perpetuity for uses compatible with open space, recreational or wetlands management practices
- No structures shall be built on the property unless they are public facilities, functionally related to open space usage, wet floodproofed, and open on all sides or are rest rooms
- No future Federal disaster assistance in any form will be sought or given with respect to the property

■ Distribute a 90-day Notice to Vacate to tenants and schedule an appointment.

As soon as a property owner accepts the community's offer to purchase a rental property, any tenants of that property automatically become eligible for relocation assistance. Immediately notify the tenant of his or her eligibility and request to schedule an individual appointment to complete a Tenant Relocation Assistance Application and Worksheet. Also, issue the tenant a 90-day notice to vacate.

Timing for the 90-day notice is essential because the tenant must move early enough for the community to demolish the structure before the end of the 90-day period after closing. Properties should be vacant by closing. Allowing owners or tenants to remain on the property after closing can cause serious problems; avoid those problems by ensuring properties are vacant before the closing.

■ Meet with each tenant.

The purpose of this meeting is to ensure that tenants understand all policies and restrictions that affect their relocation eligibility and benefits, collect any missing data, and complete the Tenant Relocation Assistance Application and Worksheet. The more you verify in this meeting, the more likely your documents will be complete and accurate, and the faster you can provide assistance funds and help the tenant move. Included in the Toolkit is a checklist (Form III-12) to help you prepare for and conduct this meeting.

Good Idea

Consider ordering and distributing copies of U. S. Department of Transportation publication No. FHWA-PD-95-010, "Your Rights and Benefits as a Displaced Person," to tenants affected by the property acquisition project. This publication, intended for public distribution, helps tenants understand their rights and responsibilities with regard to relocation benefits under the Uniform Relocation Assistance and Real Property Acquisition Policies Act.



REQUEST FUNDS FROM STATE

Once several offers have been accepted but prior to closing, request funds from your State in the total amount necessary to pay those owners. Generally, States disburse funds on a regular schedule, so adhere to that schedule and conduct closings accordingly. A few days after submitting your request, call to ensure the State received it and ask when you can expect to receive the funds.

■ Schedule closing.

Schedule the closing only after you are sure the funds will be available to disburse to the property owner. If the community has the funds to cover payment before receiving grant funds from the State, then schedule the closing at a time convenient to the property owner and the community representative. But if the community is relying on grant funds to cover the acquisition payment, wait until the State forwards payment before scheduling the closing.

When scheduling the closing, also consider when the property will be vacated. Schedule the closing when the property will be vacant by the closing date or soon thereafter, according to community policy.

■ Distribute 30-day Notice to Vacate.

Mail, or otherwise distribute, a 30-day Notice to Vacate to tenants, as appropriate.



CONDUCT CLOSING

The community pays the fair and reasonable costs normally associated with a real-estate closing, including costs of title transfer, recording fees, transfer taxes, and evidence of title and legal description. The property owner is responsible for recording fees necessary to clear existing mortgages, liens and encumbrances from the deed, as well as past or present property taxes.

Also during the closing, obtain final evidence of title showing the community as owner of the property, including documentation of a recording with the county recorder of deeds. This, along with the following documents, should be added to each property owner case file: a final title insurance policy that insures the community has free and clear title to the property, a recorded warranty deed, and copies of all disbursement checks.

CLEAR AND INSPECT LAND

After the property is vacated:

- Relocate structures, as applicable
- Take possession of keys to remaining structures
- Secure remaining structures (i.e., lock and board windows, and lock doors)
- Disconnect electricity and gas
- Turn off water and other utilities
- Post signs (e.g., "No trespassing by order of __. Violators will be prosecuted to the fullest extent of the law.")
- Demolish remaining structures as soon as possible, but no later than 90 days after closing
- Inspect cleared land



Congratulations! You have done it! You have successfully removed people from harm's way, and reduced the financial and emotional costs of a future disaster. You also have created open space that your community can now enjoy in any number of ways. **Phase IV — Open Space Management** will help you make your open space vision a reality.



CHAPTER 5 — CONDUCT SUB-GRANT CLOSEOUT

If you have maintained good files, managed your finances properly, and kept your State Grant Administrator apprised of changes, you have already taken the first steps toward sub-grant closeout. Sub-grant closeout is the process of officially “closing the books” on your community’s property acquisition project. Closing out a sub-grant does not affect FEMA’s right to disallow costs and recover funds on the basis of a later audit or review, or your community’s obligation to return any funds due as a result of later refunds, corrections, or other transactions.

Specific procedures might vary in your State, but generally to closeout a sub-grant:

- Submit a final Monthly Project Status Report and Quarterly Financial Status Report. Clearly mark them as final.
- Request final funds, if applicable. Request any administrative funds that have not yet been disbursed. If you still have to complete the last of the property closings, or have just completed the final ones, you also might need to request final project funds.
- Make all final payments to property owners, contractors, and vendors.
- Return unused funds to your State, if applicable.
- Submit a Certification of Completion once all costs have been paid and unused funds returned. If your State does not provide one for you to use, use the generic Certification of Completion in the Toolkit (Form III-13).
- Make files available for State inspection and audit. Closeout procedures will vary from state to state, but should be accomplished within 90 days of their receipt of your Certificate of Completion. Usually a State representative will review projected and actual work schedules, all property files (or a representative sample), all documents pertaining to the use of Federal funds, all procurement files,

Form III-13

and all contracts to third parties. The reports generated from the review will be compared to the sub-grant agreement. Any significant differences will be reported to your State Hazard Mitigation Officer. The State will take corrective action if necessary.

- Retain files for at least three years after closeout is completed.

INTRODUCTION

Federal law requires that property acquired under the Hazard Mitigation Grant Program (HMGP) must be *forever dedicated and maintained as open space*. Consequently, the only structures your community may build on that property are those that are compatible with open space uses, such as:

- ❑ Structures opened on all sides (e.g., picnic shelters, kiosks, and refreshment stands)
- ❑ Public restrooms

The Regional Director of the Federal Emergency Management Agency (FEMA) must approve *any* other structure in writing *before* construction begins. The Regional Director will *only* consider structures compatible with open space uses. *All* structures, whether or not approval is required, must be wet floodproofed.

CONTENTS OF THIS PHASE

Phase IV — Open Space Management summarizes some of the “best practices” used around the country by communities like yours that have implemented property acquisition projects and converted acquired properties into open space as required by law. These “best practices” take into account multi-objective planning, the goal of which is to use open space to fulfill as many of a community’s objectives as possible. This phase comprises three chapters:

- ❑ **Chapter 1 — Open Space Use Questions & Answers.** Chapter 1 contains a basic discussion of open space and its contribution to a community.
- ❑ **Chapter 2 — Planning.** Chapter 2 leads you through basic planning activities. Planning how to use your newly acquired open space is the first step toward open space management.

- ❑ **Chapter 3 — Implementation & Long-term Management.** Chapter 3 offers guidance on:
 - Finding sources of funding and technical assistance to help you realize your open space vision
 - Implementing your open space plan
 - Managing your open space for the long-term

- ❑ Part 1 of the **Toolkit** contains the following tools:
 - Tool IV-1, Pros and Cons of Open Space Uses
 - Tool IV-2, National Park Service Directory
 - Tool IV-3, Workshop Checklist
 - Tool IV-4, Conducting Workshop Checklist
 - Tool IV-5, Workshop Facilitation Guide
 - Tool IV-6, Possible Sources of Technical and Financial Assistance

- ❑ Part 2 of the **Toolkit** contains the following reproducible form:
 - Form IV-1, Open Space Profile

CHAPTER 1 — OPEN SPACE USE QUESTIONS & ANSWERS

HOW MAY WE USE OUR OPEN SPACE?

For the most part, you can use your newly acquired open space however your community wants to use it, as long as you maintain it as open space. Examples include:

- Wetland restoration
- Greenway
- Recreational area for athletic fields, hunting and fishing areas, trails, etc.
- Campground (provided adequate warning and evacuation time exists)
- Community farm or garden
- Wildlife refuge
- Bird sanctuary
- Environmental and ecological education center

As you can see, your newly acquired open space can be used in many ways. Usually, you can combine uses. For example, you can restore property to wetlands and establish an educational center where people can learn about the impact of wetlands on the environment and ecosystem. You can establish a greenway with a trail that leads to an existing park or historic site. You can develop a recreational area complete with baseball and soccer fields and playgrounds. You can establish a campground complete with fishing areas, hiking trails, and canoeing. The possibilities are endless. Tool IV-1 identifies some basic open space uses, and the pros and cons of each.

Tool IV-1

After clearing the land, all subsequent costs incurred related to its use, or non-use, are the community's responsibility. Those costs are not part of project costs.

Good Idea

Title can be transferred to an eligible non-profit organization whose stated mission is conservation. A non-profit organization is eligible if the Internal Revenue Service recognizes it as a non-profit organization.

WHAT IS PROHIBITED ON OPEN SPACE?

Generally, “development” of any type is prohibited if it:

- Alters the area’s natural appearance (e.g., removes natural vegetation)
- Impedes the area’s ability to convey flood flows (including building fences that might trap debris)
- Reduces the area’s capacity to store floodwaters (e.g., paving)
- Increases downstream velocities
- Restricts access into and out of the area

In addition, commercial inventory storage (e.g., automobiles) and cemeteries are prohibited.

HOW CAN OPEN SPACE BENEFIT MY COMMUNITY?

- Open space can contribute to your community's economic well-being.

Property values tend to increase in areas adjacent to open space, which increases the tax base. In addition, statistics show that people are spending more money on recreational activities, which can lead to related jobs

and economic activity within your community. Tourism is a big business. Open space can draw people, and their dollars, into your community as well as provide rest, relaxation, and recreation for your own citizens. Also, open space can help reduce public expenditures because it usually requires few services and only low-level maintenance.

- **Open space improves your community's environment and ecology.**

Open space offers a place where plants and animals can thrive, including threatened and endangered species. Its vegetation helps control pollution and erosion. It improves the quality of your community's air and water.

- **Open space improves your community's quality of life.**

By controlling pollution and providing recreational activities, open space contributes to the health and fitness of your community's citizens. By being aesthetically pleasing, it contributes to their mental and emotional well-being, all of which contribute to quality of life. A high quality of life can contribute to your community's economic well-being. Studies indicate that quality of life is a top criterion for businesses looking for a place to settle. Furthermore, a healthier population can reduce public and private health care and insurance costs.

- **Open space furthers your hazard mitigation goals and objectives.**

Open space increases your community's floodwater storage capacity and slows overland drainage. It also requires little or no search and rescue efforts during the next disaster. Also, by mitigating flood damages, your community might earn a higher Community Rating System (CRS) rating and pay lower National Flood Insurance Program (NFIP) premiums. Consequently, as a mitigation measure, creating open space benefits your entire community, not just the owners who sold their properties.

From Worst to Best: Tulsa, OK and the Tangible Benefits of Open Space¹

Tulsa, Oklahoma is located on the banks of the Arkansas River and is home to many creeks and tributaries that flow into the Arkansas River and nearby Verdigris River. It also is located in “Tornado Alley” and is regularly subject to high-intensity, often violent, storms with little warning.

Earliest flood records for Tulsa date back to the early 1900s and show patterns of repetitive flooding and development of flood control measures. Tulsa continued to grow nevertheless. However, it was stuck in a cycle of response, recovery, and reconstruction. By the early 1980s, Tulsa County had had nine federal disaster declarations in 15 years.

Then, in 1984, more than one foot of rain fell. As a result, 14 people were killed and 288 were injured. Damages totaled more than \$180 million. After watching its citizens endangered and struggling to rebuild over and over again, Tulsa’s leadership and residents decided they had had enough and Tulsa’s hazard mitigation projects began in earnest. Tulsa assembled a Flood Hazard Mitigation Team and created a unified program to acquire property and remove people from harm’s way, and enact flood control and storm water drainage measures.

Since the 1970s, Tulsa has cleared more than 900 buildings from its floodplain, with the largest single acquisition (300 single-family homes and 228 mobile-home pads) occurring after the 1984 flood. It has used its acquired open space to create recreational opportunities, improve fish and wildlife habitats, and enhance water quality, as well as help control the inevitable floodwaters.

For example, Tulsa has created detention sites containing permanent lakes that provide recreation, fish and wildlife habitat, aquifer recharge, and wetland restoration; and serve as filtering mechanisms to improve stormwater quality. A “trickle-trail” channel carries low-flow trickle, yet serves as a hiking, jogging, and cycling path when not carrying water. Tulsa also is working to preserve the last 17 acres of bottomland hardwood in the Mingo Creek basin; reforest 5,280 new trees in and around detention sites; and develop soccer, baseball, and football fields and picnic shelters. Consequently, Tulsa residents enjoy a variety of

recreational opportunities and, most important, a sense of security. But, the benefits Tulsa reaps do not stop there.

Twice, the Association of State Floodplain Managers has awarded Tulsa its top awards. FEMA has awarded Tulsa its Outstanding Public Service Award for its “significant contributions and distinguished leadership” in floodplain management. And, Tulsa has received the nation’s highest rating in NFIP’s CRS, which means Tulsa’s residents pay the lowest insurance rates in the country.

Tulsa has transformed itself from a community known for its disasters to a community known for its leadership in hazard mitigation and citizen-based planning, and its high quality of life.

¹ Adapted from *From Harm’s Way/Flood-hazard Mitigation in Tulsa, Oklahoma*, December 1993 & *From Rooftop to River/Tulsa’s Approach to Floodplain and Stormwater Management*, May 1994, both published under the auspices of the City of Tulsa Public Works Department

CHAPTER 2 — PLANNING

Good Idea

Before you do anything, contact a representative from the Rivers, Trails, and Conservation Assistance (RTCA) Program of the National Park Service (NPS). Since the devastating Midwest floods of 1993, RTCA has been an invaluable partner of communities developing and implementing open space plans. See Tool IV-2 for a list of the NPS's headquarters and regional offices.

Tool IV-2

IDENTIFY OPEN SPACE WORKGROUP

■ Who should be in my workgroup?

In Phase I, we identified the characteristics of a good project team leader and members. Those same characteristics apply to your open space workgroup.

Your workgroup should be citizen-based, comprise a broad range of expertise, and represent local interests. Specifically, assemble a workgroup whose members represent local government, owners of properties adjacent to the open space, local businesses and developers, community service and civic organizations, local conservation and environmental groups, etc.

■ What does my workgroup do?

Your workgroup provides project leadership; it might be a planning team, steering committee, etc. It also coordinates all planning activities



Form IV-1

and finalizes the Open Space Concept Plan. In addition, your workgroup creates an open space profile by researching the following. (Use Form IV-1 to capture your research.)

- ❑ The buyout area. Use information from your Hazard Mitigation Project Strategy (Phase I) and Application (Phase II), and from site visits to describe the buyout area. If your community has more than one buyout area, describe each individually. Specifically, describe:
 - Natural features. Include its location, size, topography, vegetation (native and landscaped), soil, etc.
 - Historic, archeological, and cultural features and their significance to the community. Also, identify historic structures relocated outside the area and their new location.
 - Existing infrastructure. Identify services provided by the community and infrastructure that might still be in place (e.g., sewer and water lines, utilities, street lights, roads, sidewalks, stormwater drains, etc.).
 - Existing improvements. Identify neighborhood improvements such as playgrounds, basketball and volleyball courts, etc.

- ❑ Areas adjacent to the buyout area. Describe the areas surrounding the buyout area, and how they all interrelate. Answer questions such as these: Are the surrounding areas primarily residential, business, or recreational? How close are the nearest populations? Who comprises the populations? (Answer this question in vague terms: elderly, families with children, etc. Knowing who lives nearby might affect possible uses.) How are the areas connected (e.g., roads, sidewalks, woods, etc.)?

- ❑ Existing facilities and programs within the community. Identify and describe the historic, recreational, cultural, etc. programs offered within your community. Include State and Federal programs (such as parks) as well. Identify their locations relative to the buyout area. (For example, State Park is located one-mile northwest of the buyout area, and is accessible to buyout area via Maple Avenue. Undeveloped private property separates the park and buyout area).

- ❑ Facilities and programs under development within the community. Identify and describe historic, recreational, cultural, etc. programs being considered within your community or currently developed by local, State, or Federal agencies or private organizations (such as conservation or environment groups). Identify their proposed locations relative to the buyout area.
- ❑ Local floodplain regulations and policies and land-use plans. These regulations, policies, and plans identify local goals and objectives, guidelines, restrictions, etc. Local regulations and policies also reflect State regulations and policies. Your open space use must meet local and State as well as Federal requirements.

■ How does my workgroup use that information?

Your open space profile creates the framework for your open space concept plan. You have a good picture of the buyout area as it is now, as well as enough information to begin visualizing how it might be in the future. From this point forward, your planning takes place within the context of this framework.

■ Obviously, my workgroup is ready to start planning. What now?

Your workgroup does not conduct planning. Your community does. Your newly acquired open space is public land. Therefore, the public should have input into how to use it. Without the support of your community, your open space plan and the long-term management of your open space is likely to fail. The best way to gain the community's support is to get the community involved.

■ Does my workgroup's job end here?

No, your workgroup still has plenty to do. It organizes and facilitates your community's involvement, and coordinates your community's ideas into a single open space concept plan.

INVOLVE COMMUNITY



■ Prepare for town meeting

Use a town meeting, or a series of town meetings, to get the community involved in open space planning. The town meeting conducted during this phase is really a workshop and, therefore, its preparation and conduct is a little different than the other town meetings you have held.

Purpose

The purpose of the town meeting is to solicit and document ideas from the public on how to use the open space created by your property acquisition project.

Materials

In addition to your plan framework, prepare a base map of the community that highlights the buyout area(s), adjacent area(s), and existing and proposed facilities and programs. State or local planning or RTCA staff might be able to help you do this.

Tools IV-3 & IV-4

Use Tool IV-3, Workshop Checklist, and Tool IV-4, Conducting Workshop Checklist, to help you prepare.

■ Conduct town meeting

Tool IV-5

Unlike the previous town meetings, participants of a workshop have a more active role than the facilitator(s) and speaker(s). Use Tool IV-5, Facilitation Guide, to guide you through the conduct of the workshop. More than one workshop might be necessary, in which case, modify the guide for any subsequent meeting(s). Hold as many meetings as necessary to refine ideas until those ideas reflect a community consensus. (At a minimum, hold another meeting to present the concept plan. See next section.)

How One Community Did It: The City of Audubon, Iowa

The Audubon Floodplain Open Space Steering Committee finalized Audubon's Open Space Concept Plan in November of 1995 with help from RTCA, FEMA, the Iowa Emergency Management Division, and, most important, community residents. The committee sponsored three workshops to involve residents in the planning process. State and FEMA Floodplain Management Program representatives also attended the workshops.

Workshop 1: The first workshop's purpose was to identify potential open space uses for the buyout area. The thirty-eight residents who attended were divided into smaller groups of 12 to 14 people each. Each group listed its ideas for using the space and sketched those ideas onto base maps.

Workshop 2: The second workshop was held the next month. Its purpose was to evaluate the ideas proposed during the first workshop and consolidate them into one overall concept. The twenty people who attended reached consensus on these uses: trails, habitat and stream restoration, an environmental education area and outdoor classroom, creek access areas, recreational facilities, and community gardens. An NPS landscape architect worked with them to draft a conceptual map.

The steering committee then evaluated the ideas to determine if they were technically feasible and ensure they complied with deed restrictions and floodplain regulations. Local natural resource agency staff and biology, ecology, and soil science experts helped them determine technical feasibility. Using the working group's map and the technical evaluations, the committee created Audubon's open space concept map.

Workshop 3: The third workshop was held three months after the second. This workshop's purpose was to update the residents and discuss the concept map. The community endorsed the proposed uses, with minor revisions, and selected a demonstration project.

The committee then presented the concept map to the city council, which unanimously endorsed it.

How Another Community Did It: City of Cherokee, Iowa

In addition to its community workshops, the city of Cherokee involved students from the school system's Talented and Gifted (TAG) program. Students in grades five through eight studied floodplain use and developed models for using the open space created by the property acquisition project. They presented their models at the first community workshop. Their ideas were incorporated into Cherokee's final Green Spaces Plan (concept plan).



PREPARE OPEN SPACE CONCEPT PLAN

Your Open Space Concept Plan reflects the workshop participants' consensus of ideas. The concept plan develops those ideas in more detail and is the blueprint for making those ideas realities.

■ Creating your concept plan

- Summarize your open space profile. Since your open space profile creates the framework for your Open Space Concept Plan, summarizing it sets the stage for your community's ideas.
- Summarize your community's ideas. Describe the open space facilities and programs that the citizens favor. Include citizens' ideas for:
 - Placing facilities and programs within the buyout area
 - Integrating those ideas with adjacent areas and facilities and programs within the community
 - Using existing infrastructure
 - Providing amenities

- Accessibility (e.g., vehicular and pedestrian traffic to, from, and throughout the area; addressing special needs, such as those of persons with disabilities and the elderly; etc.)
 - Restoring vegetation
-
- Evaluate feasibility of implementing ideas. Ask local, State, or regional experts (e.g., engineering, planning, recreation, fish and wildlife, etc.) to determine if the ideas are technical feasible. If experts determine the ideas are not feasible, ask them to suggest ways for making the ideas feasible if possible.
 - Evaluate ideas to ensure they are compatible with the deed restrictions and easement restrictions. Contact your SHMO if you have any questions.
 - Modify ideas to include only those that are technically feasible. Also, identify those that might be made technically feasible and explain how.
 - Evaluate public safety issues. Ask police and fire officials to identify possible safety concerns and solutions to those concerns. Ask a town or county attorney to identify liability issues and ways to address those issues. Incorporate public safety experts' opinions into the plan.
 - Evaluate positive and negative impacts to natural and cultural resources and avoid any adverse impacts.
 - Develop implementation plan. Determine the logical order for implementing ideas and estimate the amount of time necessary for implementing each (e.g., trail construction, six weeks). Identify specific, individual implementation activities to fulfill ideas (e.g., trail construction might involve clearing overgrowth through wooded areas and grading). Address technical and public safety issues as necessary. Estimate an implementation schedule. Ensure plan complies with local, State and Federal regulations and policies.
 - Draft budget. Estimate the cost of completing each implementation activity within the estimated amount of time. For each activity, estimate labor, material, supervision, management, and overhead costs. Total the costs. Identify possible cost offsets, such as using donated

services or unskilled volunteer labor. Identify equipment, material, or supplies belonging to the community that might be available to offset costs. Determine activities that can be performed as part of current regional, county, or community employees' responsibilities. Note any assumptions that might affect the budget.

- ❑ Create concept map. Using your original base map, develop a concept map. Show each open space facility and program within the buyout area, as well as integration with each adjacent area (e.g., a tree line along the boundary between them) and other community facilities and programs (e.g., a greenway between the buyout area and a State park). Also, show access to and from the open space, parking, etc.
- ❑ Establish hours of operation. Determine times of year facilities and programs will be open and restrictions (e.g., trails may be used for biking in the summer months and cross-country skiing in the winter months, baseball diamonds are open in the spring and summer months, no pets allowed, etc.). Determine the times of day facilities and programs will be open (e.g., dawn to dusk, 9 a.m. to 9 p.m., etc.).
- ❑ Determine signage. Identify necessary postings, such as:
 - Hours of operations
 - Educational and interpretative information (e.g., identifying vegetation, historical significance, trails, etc.)
 - Acknowledgments (e.g., contributions of money and service)

Also, consider the size, appearance, and placement of signs

■ Presenting your concept plan

Hold a final town meeting to present the concept plan and budget to the public. Explain the overall process you used, describing all previous town meetings, and the development and evaluation of ideas. Display and discuss the concept map. Solicit feedback. Carefully consider any revisions suggested by attendees and, to the extent possible, revise the plan.

Finally, present the plan and budget to community decision-makers (e.g., city or town council, board of supervisors, etc.). Be sure to explain your process, stressing that the plan is citizen-based. Determine how much money your community can provide towards implementing the plan.

Once your plan is approved, put it into action.

CHAPTER 3 — IMPLEMENTATION & LONG-TERM MANAGEMENT

Putting your plan into action probably requires a change in leadership, from your open space workgroup to the entity that will have long-term responsibility for the property. Usually, this is a local parks and recreation department or similar entity. Putting your plan into action also requires identifying and gathering sources of financial and technical assistance to enable you to actually implement your plan.



OBTAIN FUNDING

Your community might not be able to fund your entire implementation budget, in which case funds from private organizations and State and Federal agencies might be available in the form of grants, loans, and donations to make up for the shortfall. To determine possible sources of funding, approach:

- Civic, service, conservation, recreation, and environmental organizations and groups in your community and State
- Businesses within and near your community, especially those that employ large percentages of the population
- State and Federal conservation and environmental agencies
- Groups, organizations, and agencies sponsoring similar facilities, programs, and initiatives within your community (refer to your profile), especially sponsors of those that can be integrated with your open space

Consider also services and materials that can be donated, thus eliminating the need for money to pay for them. Businesses, civic and professional organizations, houses of worship, youth groups, etc. that cannot provide funds might be able to donate equipment or materials, organize volunteers, or provide refreshments for volunteer workers. (For example,

hold a volunteer workday on a Saturday and ask major employers to provide materials, a neighborhood church to prepare a picnic lunch, the Women's Club to prepare desserts, and the Elks to supply beverages.)

OBTAIN TECHNICAL ASSISTANCE RESOURCES

Building a public restroom or picnic shelter, developing a trail or baseball diamond, planting trees . . . all of the possible uses of your open space probably require some degree of input from experts. That input might simply be in the form of advice and guidance, or actual performance of a task.

Some assistance might come from local, regional, State, and Federal employees as part of their normal roles and responsibilities. Search for assistance that is outside the realm of public service as you would for funds. Consider assistance that can be donated or provided by one of your volunteers (e.g., a company willing to donate construction services or a scoutmaster who is a carpenter and can lead the effort to build picnic shelters). In addition to the sources identified in the above section, approach colleges and universities, vocational and trade schools, and professional organizations for technical assistance.

Tool IV-6, Possible Sources of Financial and Technical Assistance, identifies just a few private organizations and public agencies that might be able to provide assistance. That list is by no means all-inclusive, but it is a starting point.



Tool IV-6

IMPLEMENT YOUR OPEN SPACE PLAN

Refine your implementation schedule and budget to reflect any modifications you have made to your implementation plan resulting from your last town meeting or presentation before the decision-makers, and any funding and technical assistance you have received, expect to receive, or need to pursue. With your final plan in hand, you are ready to turn your buyout area into a valuable community resource.



Generally, implementation requires some degree of:

- Coordination among the various public agencies, private organizations, businesses, volunteers, etc., and coordination with community safety and permitting agencies
- Oversight of facility design and development and habitat restoration
- Fundraising and grant application development
- Outreach to recruit and maintain volunteers
- Communication to report progress to both the decision-makers and public
- Community involvement to maintain enthusiasm and support, and encourage volunteerism



MANAGE & MAINTAIN OPEN SPACE PROPERTY

Long-term management of your open space property begins with a management plan. In your management plan, address at least these three major areas:

- Maintenance.** Maintenance depends on the area. For example, wetlands require little or no maintenance, picnic areas require routine trash collection and mowing, restrooms require routine cleaning and re-supply, trails require routine upkeep, and athletic fields require preparation before each season and periodic maintenance throughout the season. Maintenance also addresses such issues as cleanup and debris removal after a flood. Include maintenance schedules for each area. Consider seasonal differences (e.g., trash collection might be required less often during weekdays and fall and winter months than during weekends and spring and summer months).
- Budget.** Because your open space is public property, its management becomes part of your community budget. Oversight and maintenance are the biggest budget items.

- ❑ Responsibility. Designate responsibility for each management and maintenance activity. To minimize public expenditure, consider private sponsorship of areas or fee collection. For example, encourage businesses to “adopt” trails or sections of trails for which they assume maintenance responsibility, partner with scout troops to periodically maintain and clean up designated areas to satisfy badge requirements, charge teams fees to contribute to the upkeep of athletic fields, etc.

After you have completed your management plan and received any necessary approval for it, implement your management plan. Ensure everyone who has responsibility for a management and maintenance activity fully understands that responsibility, and the schedule and budget associated with it.

Now, enjoy your open space and the benefits it provides!

GLOSSARY

The definitions below include those used within the four phases of this handbook, as well as subject matter related words and terms you might hear and see. These definitions are applicable within the context of this handbook and its overall subject matter.

base flood

Flood having a one percent chance of being equaled or exceeded in any given year.

base flood elevation (BFE)

Elevation for which there is a one percent chance in any given year that flood levels will equal or exceed it. BFE is determined by statistical analysis of stream-flow records for the watershed, and rainfall and runoff characteristics in the general region of the watershed.

benefits

Future losses and damages prevented by a project.

benefit cost analysis (BCA)

FEMA's assessment of project data to determine whether or not the cost of the project is justified by its benefits.

benefit cost ratio (BCR)

Result of the BCA. The BCR is determined by dividing the project's benefits by its costs. A BCR equal to or greater than 1.0 indicates that a project is cost-effective. A BCR lower than 1.0 indicates the project is not cost-effective.

buyout

Commonly used synonym for property acquisition.

Chief Executive Officer (CEO)

Official of the community who is charged with the authority to implement and administer laws, ordinances, and regulations for that community.

community

Any area or political subdivision of a State, Indian tribe or authorized tribal organization, or Alaska Native village or authorized native organization which has authority to adopt and enforce floodplain management regulations for the areas within its jurisdiction.

Community Rating System (CRS)

A system whereby NFIP-participating communities are rated according to their floodplain management and hazard mitigation practices. CRS rewards a community's mitigation efforts by offering property owners discounts on flood insurance premiums based on the community's rating. Contact your State Hazard Mitigation Officer for more information.

duplication of benefits (DOB)

FEMA's policy is to prevent the duplication of benefits among its own programs (to include NFIP), and among its own programs and other sources of funds (e.g., other disaster assistance and insurance) for the same purpose. Therefore, FEMA considers such assistance to be advances towards the purchase price of a property, and deducts those amounts from the price paid to the property owner. However, FEMA will not deduct benefits for which the property owner can provide receipts showing that the money has been used for its intended purpose (e.g., repairs to a home).

fair market value (FMV)

The price a property would bring in a competitive and open market. For the purposes of property acquisition, FMV is the value a willing buyer would have paid and a willing seller would have sold a property for had the disaster not occurred.

Federal Emergency Management Agency (FEMA)

The federal agency charged with building and supporting the nation's emergency management system. FEMA is involved in all stages of the disaster life cycle, including response, recovery, mitigation, risk reduction, prevention, and preparedness.

first floor elevation (FFE)

Elevation of the top of the lowest finished floor of a structure.

Flood Hazard Boundary Map (FHBM)

Official map of a community where the boundaries of flood-related erosion areas having special hazards have been designated as zones A, M, and/or E.

Flood Insurance Rate Map (FIRM)

Official map of a community delineating both the special hazard areas and the risk-premium zones applicable to that community.

Flood Mitigation Assistance (FMA) program

Pre-disaster grant program to provide funding for implementing measures to reduce or eliminate the long-term risk of flood damage to structures insurable under the NFIP.

floodplain or flood-prone area

Any land area susceptible to being inundated by water from any source.

floodplain management

Overall program of corrective and preventive measures for reducing flood damage, including, but not limited to, emergency preparedness plans, flood control works, and floodplain management regulations.

floodplain management regulations

Zoning ordinances, subdivision regulations, building codes, health regulations, special-purpose ordinances (such as floodplain, grading, and erosion control ordinances), and other state or local regulations that provide standards of flood damage prevention and reduction.

floodproofing

Any combination of structural and non-structural additions, changes, or adjustments to structures that reduce or eliminate flood damages to the structures and their contents.

floodway

Portion of the floodplain that is effective in carrying flow and where the flood hazard is generally highest.

freeboard

Factor of safety usually expressed in feet above a flood level for purposes of floodplain management. Freeboard tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization in the watershed.

grant

Award of financial assistance.

grantee

Government entity to which FEMA awards a grant, and which is accountable for the use of funds awarded. Under the HMGP, the State is the grantee.

hazard mitigation

Any action taken to reduce or eliminate the long-term risk to life and property from natural disasters.

Hazard Mitigation Grant Program (HMGP)

Post-disaster grant program to provide funding for applicable hazard mitigation measures to reduce or eliminate the long-term risk of natural disasters.

historic structure

Any structure:

- Listed or eligible for listing in the National Register of Historic Places.
- Determined by the Secretary of the Interior as contributing to the historical significance of a registered or qualifying historic district.
- Listed on a state inventory of historic places in states that have historic preservation programs approved by the Secretary of the Interior.

- ❑ Listed on a local inventory of historic places in communities that have historic preservation programs that have been certified either by the state or the Secretary of the Interior.

Increased Cost of Compliance (ICC)

A claim under a standard flood insurance policy. When a structure covered by a standard flood insurance policy under the NFIP sustains a flood loss and is declared to be substantially or repetitively damaged, ICC helps pay the property owner for the cost of mitigation measures, including demolition and relocation, up to \$15,000. ICC claims apply to structures only. FEMA 301, Increased Cost of Compliance Coverage, provides information for local floodplain management officials on how flood-damaged buildings insured under the National Flood Insurance Program will benefit from this coverage.

National Flood Insurance Program (NFIP)

Program authorized by the National Flood Insurance Act of 1968 to provide flood insurance protection to property owners in flood-prone areas.

NFIP-eligible or -participating community

Community for which the sale of flood insurance under the NFIP has been authorized.

regulatory floodway

Channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

repetitive loss

A structure that has sustained flood damage on more than one occasion has sustained repetitive loss.

riverine

Relating to, formed by, or resembling a river (to include tributaries), streams, brook, etc.

State Hazard Mitigation Officer (SHMO)

Representative of State Government who is the primary point of contact with FEMA, other Federal agencies, and local units of government in the planning and implementation of mitigation programs and activities required under the Stafford Act (including FMA and HMGP activities).

special flood hazard area

The land in the floodplain within a community subject to a one-percent or greater chance of flooding in any given year. It might be designated as Zone A on the FHBM.

structure

A walled and roofed building, including a storage tank for gas or liquid, that is principally above ground.

substantial damage

Damage sustained by a structure during a disaster whereby the cost of restoring the structure to its pre-disaster state would equal or exceed 50 percent of its pre-disaster market value. FEMA 311, Guidance on Estimating Substantial Damage, provides detailed information to State and local floodplain management officials on how to calculate substantial damage in accordance with the National Flood Insurance Program regulations, (FEMA 311 also includes software that performs necessary calculations).

substantial improvement

Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement.

sub-grant

Award of financial assistance under a grant by a grantee.

sub-grantee

Government or other legal entity to which a sub-grant is awarded and which is accountable to the grantee for the use of funds awarded. Under the HMGP, the community is the sub-grantee.

LIST OF ACRONYMS

The following acronyms include those used throughout the four phases of this handbook, as well as subject matter related acronyms that you might hear or see.

BFE	base flood elevation
BCA	benefit cost analysis
BCR	benefit cost ratio
CDBG	Community Development Block Grant
CFR	Code of Federal Regulations
CRS	Community Rating System
DOB	duplication of benefits
EO	Executive Order
FEMA	Federal Emergency Management Agency
FHBM	Flood Hazard Boundary Map
FIRM	Flood Insurance Rate Map
FFE	first floor elevation
FMA	Flood Mitigation Assistance
FMV	fair market value
HMGP	Hazard Mitigation Grant Program

List of Acronyms

HUD	U.S. Department of Housing and Urban Development
IFG	Individual and Family Grant
ICC	Increased Cost of Compliance
LMI	low-to-moderate income
NEPA	National Environmental Policy Act
NFIP	National Flood Insurance Program
POC	point of contact
PSA	public service announcement
SBA	U.S. Small Business Administration
SHMO	State Hazard Mitigation Officer
URA	Uniform Relocation Assistance and Real Property Acquisition Policies Act

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From: [Nina Beety](#)
To: [CSLC CommissionMeetings; Public, ExecutiveOfficer@SLC; ,MEPDAssistantChief.Public@slc.ca.gov; SLCOGPP@SLC](#)
Cc: [ExecutiveStaff@Coastal; montereybay@noaa.gov; explorationcenter@noaa.gov; Karen.Grimmer@noaa.gov; chaptercoordinator@monterey.surfrider.org; nbeety](#)
Subject: Protest of MBARI geophysical surveys - A4564
Date: Wednesday, January 29, 2025 2:46:12 AM

Attention: This email originated from outside of SLC and should be treated with extra caution.

California State Lands Commission:

The MBARI geophysical survey in Monterey Bay today must halted as unlawful.. The January 15 notice by MBARI for geophysical survey work was insufficient notice for conducting surveys on January 28 - 29 per 2 CA ADC § 2100.08(a) **Public Notice of Survey Activity**. **“(a) No less than 21 calendar days prior to the commencement of a geophysical survey, the permittee shall provide electronic notice of the survey activity to the following parties...”**

This means that no survey can occur earlier than Feb. 5.

Subsection (d) states:

“(d) Shorter Notification: If, due to an emergency affecting public health or safety, harm to the environment, or other circumstance in which 21-days' notice cannot be provided, the permittee shall use best efforts to notify the Commission and the parties listed in subsection (a) as quickly as practicable.”

However, no such emergency situation exists necessitating these surveys.

In fact, the emergency situation at Moss Landing requires the greatest priority as discovering the extent of contamination in and around the Moss Landing battery storage facility, assisting everyone involved and affected, and not further degrading or damaging the environment there. It is unfathomable that MBARI would act as if this hasn't happened.

MBARI is employing very high decibel levels for its surveys above levels that experts say are injurious. Hearing impacts are not the sole impact. The Tacoma Narrows Bridge could not “hear” the frequencies it was resonant with. Nevertheless, those frequencies caused it to collapse.

Resonance

200-450 kHz are multiples of lower frequencies resonant with the human head and brain, lungs, and abdomen.

https://www.researchgate.net/figure/Resonance-frequencies-of-human-body-organs_tbl1_274471590

What resonance effects are happening to marine wildlife? Resonance effects for marine animal organs and marine animal whole-body exposure have not been explained by MBARI or proven they will not occur for plankton, small and large fish, crustaceans, seals, dolphins, and whales. Stranding from Navy sonar is well-known.

MBARI equipment also has a pulse rate of 60 Hz a biologically active frequency.

Decibels (dB)

“Sound is a wave of pressure that acts just like an actual wave. It can move through both solids and liquids and pass through our bodies as well.

If the pressure buildup is high enough, it can cause damage to our eardrums and internal organs.”

<https://decibelpro.app/blog/can-sound-kill-you/>

MBARI's dB levels could be lethal. Much lower dB levels can damage human organs such as the lungs, and injure or rupture internal membranes of the middle and inner ear. Jet take-off noise at 150 dB will rupture eardrums. LRAD weapons operate at 162 decibels.

<https://lethalindisguise.org/wp-content/uploads/2022/12/LID2-Acoustic-Weapons.pdf>

<https://phr.org/our-work/resources/health-impacts-of-crowd-control-weapons-acoustic-weapons/> Physicians for Human Rights

MBARI's equipment will be blasting at 191 dB - 221 dB.

OSHA maximum permitted dB for humans for ½ hour is only 110 dB.

Since decibels are logarithmic, MBARI levels are much, much higher than OSHA's limit.

<https://decibelpro.app/blog/how-loud-is-80-decibels/>

If my calculations based on the above information is correct,

191 dB = 1000 times (10x10x10) more powerful than LRAD weapons,

and 1,000,000,000 times (10(9)) more powerful than OSHA limits

221 dB = 1,000,000 times (10(6)) more powerful than LRAD

and 10((12) more powerful than OSHA limits

This is not safe for marine life.

However, MBARI's purpose and focus in this project is mapping the sea floor and topography, not protecting the living ocean. That neglect of science and loving care is extremely alarming, as the body of science and protecting nature should be the foundation of all

research work.

Additional information is below from sound monitoring professionals

Halt this environmentally destructive survey that violates California rules and which is antithetical to stewardship and protection of the ocean, California coastal resources, the Monterey Bay Marine Sanctuary, and the Earth.

Sincerely,

Nina Beety
Monterey, California

<https://www.noisemonitoringservices.com/how-loud-is-a-decibel/>

How loud is 140 decibels?

- A jet engine at 100 feet would measure to be 140 decibels.
- 140 decibels is the human pain threshold according to OSHA.
- At 140 decibels the human vocal cord begins to vibrate.
- At 141 decibels nausea begins to set in.

How loud is 150 decibels?

- Fireworks overhead are typically 150 decibels.
- A sustained noise level of 150 decibels will blur human vision and vibrate human lungs.

How loud is 160 decibels?

- A typical firearm is 160 decibels.
- At 163 decibels glass begins to shatter.

How loud is 170 decibels?

- An avalanche is typically 170 decibels.
- At 172 decibels fog can begin to form depending on temperature, humidity, and dew point.

[At 204 dB] [t]he Saturn V itself is so loud that it could destroy itself from its own noise levels. NASA has developed a Sound Suppression System that dumps enormous quantities of water continuously onto the launch pad to muffle the sound waves reflecting off the launch pad.

<https://decibelpro.app/blog/can-sound-kill-you/>

"[S]ounds above 185 dB can impact your inner organs and cause death. They can do this by causing an air embolism in your lungs, affect inner organs, or even make your lungs explode."

From: [Lauren Ayers](#)
To: [CSLC CommissionMeetings](#); [Public, ExecutiveOfficer@SLC](#); [Public, MEPDAssistantChief@SLC](#); [SLCOGPP@SLC](#); [Julie Packard, ED](#)
Cc: [ExecutiveStaff@Coastal](#); [montereybay@noaa.gov](#); [explorationcenter@noaa.gov](#); [Karen.Grimmer@noaa.gov](#)
Subject: Saturn V rocket decibels in Monterey Bay?
Date: Monday, February 3, 2025 3:39:34 PM

Attention: This email originated from outside of SLC and should be treated with extra caution.

Hello Land Commissioners and Aquarium Director Julie Packard:

Why are you using high decibel EMF-emitting equipment for the geophysical survey of Monterey Bay?

The Aquarium educates the public about the wondrous life forms yet you are planning to expose the myriad of bay creatures to killer decibels?

- A jet 100 feet overhead is a mere **140** decibels
- Sounds above **185** decibels can cause death by air embolism in the lungs
- A Saturn V rocket takes off at **204** decibels.
- **Your geophysical survey of Monterey Bay uses 191 to 221 decibels**

Surely there is a safer alternative.

It's hard for committees to overcome the momentum of a Decision Made. But isn't it better to **stop a mistake before it happens** than to **regret irrevocable damage**?

From a grateful visitor to the Aquarium,
Lauren Ayers

~ ~ ~ ~ ~ ~ ~ ~ ~ ~

Landline: [REDACTED]

Sent from my fast, secured INTERNET laptop connection, with NO WiFi enabled. Protect yourself and others, check out [AmericansForResponsibleTech.org](#)

From: [Garrett Kitahata](#)
To: [CSLC CommissionMeetings](#)
Subject: Submission for Public Comment regarding project: Green Lighthouse
Date: Tuesday, February 25, 2025 11:12:52 AM

Attention: This email originated from outside of SLC and should be treated with extra caution.

Governors Direction

UC Lab Group
CEQA Work
Governors
James,

This situation developing in Santa Barbara regarding Sable's efforts to reactivate the aging Gaviota oil infrastructure has created an opportunity for the Great State of California and the UC researchers to pioneer a technological peace & conflict resolution strategy that reconstructs non-operational oil infrastructure into the renewable grid.

While decommissioning of Gaviota Coast's non-operational oil infrastructure has been proceeding, Sable's efforts to reactivate it have highlighted the dilapidated state of the infrastructure and the serious concerns of the community regarding oil & gas operations in the Santa Barbara Channel.

It is with great honor that the special lab group from UC Berkeley is sharing an opportunity to resolve this conflict through a pilot project called the Green Lighthouse which shares a technology development strategy that reconfigures select non-operational oil infrastructure to support renewable power generation, storage, and transmission. Following this course creates new opportunities to support the sustainability goals of the community.

Information on this project can be found at [ProjectFirstLight.net](#). As the renewable energy transition beckons, novel technologies, like solar photovoltaic and both onshore and offshore wind, have a net positive impact on powering infrastructure in our society.

As we move forward in time, America's Green Corps has an alternative solution to the aging and decommissioned Platform Holly.

For some context, the 1969 oil spill in Santa Barbara caused a ripple effect leading to the inception of Earth Day in 1970. A new storyline is necessary in order to create the effects of transition that we and the signatories of this movement think are necessary to make a difference during a time of national political resistance to the development of new renewable technologies and in favor of coal and oil. This is particularly connected to the Morro and Humboldt Bay offshore wind projects off of the coast of California.

We acknowledge the recent news that Platform Esther has also recently been decommissioned and would like to submit this message to also support a successful decommissioning process for this other oil structure.

In order to usher in a more sustainable path for the future, we need to work together and take an innovative step, by rendering an offshore structure useful and turning it into a monument representing the end of an era where oil was the dominant source of energy and income. We call this concept the "Green Lighthouse."

This platform transformation would allow us to power ships, have a weather node as early warning for fires, and preserve marine life and aquaculture on the site, protecting the oceans from oil seepage and keeping the life on the platform alive. The platform would be connected to the Chumash Tribe who inhabited the land near Santa Barbara before it was industrialized.

Your support on this project would be greatly appreciated as it would have a lasting impact on Santa Barbara, California, and the world. The first step would be getting the public in agreement that preservation of an offshore structure is a more viable solution. A new era is upon us and we have the technology and means to make a decision in favor of this transition.

Visit Americasgreencorps.org for more information. We are collecting signatures of support for this Green Lighthouse project.