



# The Florida Senate

Interim Project Report 2005-105

January 2005

Committee on Transportation and Economic Development  
Appropriations

Senator Mike Fasano, Chair

## HAZARD MITIGATION PROGRAM FUNDING

### SUMMARY

This report reviews selected issues related to the Department of Community Affairs' Hazard Mitigation Grant Program. They include the project selection process, the non-federal matching options, and the level of legislative oversight.

The federal Hazard Mitigation Grant Program (HMGP) was created to assist states, local governments, private non-profit organizations and Indian tribes in the implementation of long-term hazard mitigation measures following a major disaster declaration. In 1997, the Department of Community Affairs developed the *Florida Hazard Mitigation Strategy* to enable Florida's communities to be more resistant to the impacts of disasters. The foundation for Florida's plan was the development of a *Local Mitigation Strategy* (LMS) for each of Florida's 67 counties that was consistent with the goals of the State Mitigation Plan and the requirements of the federal Disaster Mitigation Act of 2000. Both the State Mitigation Plan and the federal Disaster Mitigation Act of 2000 emphasized multi-agency integrated planning to reduce disaster costs in terms of loss of life, loss of property, and economic disruption.

The review found the selection of local mitigation projects to be an involved and comprehensive process that incorporates input from a broad based group of local participants to address specific mitigation concerns in their area. After adoption of the priority funding list by the local Mitigation Strategy Working Group, approval by the state and Federal Emergency Management Agency is necessary before a project is eligible for Federal HMGP funds. Once eligible for HMGP funds, a non-federal match of 25% is required which may include both state and local funds. The entity responsible for the non-federal match is not specified in statute and has been established either through the issuance of an "emergency management" executive order by the Governor, the budget

amendment process outlined in Chapter 216, Florida Statutes, or proviso language contained in the State General Appropriations Act. This method of establishing non-federal match requirements has contributed to an inconsistent match policy over the last ten to twelve years. And finally, the current level of Legislative oversight appears to be adequate, given the structure of the HMGP, the evaluation and selection processes employed, and the extent of federal and state regulation.

It is recommended that:

- (1) The Legislature should continue to monitor the performance and effectiveness of the HMGP in accordance with its oversight responsibilities under s. 11.143, F.S. If the current non-federal match policy changes and the state provides matching funds, then the Legislature should consider taking a more active role in the review and approval of individual hazard mitigation projects.
- (2) The Department of Community Affairs should continue to maximize the use of "global match" through education, communication, and enhanced coordination with other state and local agencies.
- (3) The Legislature should provide statutory direction regarding responsibility for the non-federal share of costs associated with the HMGP. [Note: prior to the release of this report, the Legislature passed House Bill 19A during Special Session 2004A, which, among other things, modified Section 252.37, Florida Statutes, requiring HMGP applicants to meet the non-federal share of costs. Statutory language was also adopted to allow the Legislature to adjust the non-federal match responsibility for a particular fiscal year through the General Appropriations Act.]

## BACKGROUND

The Robert T. Stafford Disaster Relief and Emergency Assistance Act passed on November 23, 1988, amended Public Law 93-288, the Disaster Relief Act of 1974. Two sections related to mitigation actions after a major disaster were included in the Act. Authorization for funding in these two sections does not allow for any duplication between them. Section 406 provided discretionary authority to fund the repair, restoration, reconstruction, or replacement of a public facility ***damaged or destroyed*** by a major disaster. Section 404 created the HMGP to assist states, local governments, private non-profit organizations and Indian tribes in implementing long-term hazard mitigation for ***undamaged*** facilities following a major disaster declaration. Grants under the HMGP are awarded based on the disaster mitigation plans developed by state and local partners that are currently required by the federal government. This interim project focuses on the HMGP.

The FEMA defines hazard mitigation as “an action intended to reduce repetitive losses” in future natural disasters. In this context, "repetitive" refers to similar types of losses caused by a recurring natural hazard. The term "losses" refers to expenditures for the repair or replacement of public and private property, and for the relief of personal loss or other hardship. Post-disaster projects that simply repair and reconstruct damaged property to pre-disaster conditions are not eligible for funding under the HMGP. Rather than mitigating loss, these types of projects serve only to perpetuate a cycle of damage, reconstruction and repeated damage.

The primary objectives of HMGP are:

- to prevent future loss of lives and damage to property due to disasters;
- to implement state or local hazard mitigation plans;
- to enable mitigation measures to be implemented during immediate recovery from a disaster; and
- to provide funding for previously identified mitigation measures that benefit the disaster area.

In the 1990's, the importance of integrated planning and pre-disaster mitigation programs began to be emphasized at both the national and state level. These efforts reduce the amount of future damages as a result of disaster events. In 1995, FEMA published its *National Mitigation Strategy* which stressed two 15-year national goals. The first goal was to increase public awareness of natural hazard risk and the second was to reduce the costs of natural disasters, including

loss of life, injuries, economic costs, and disruption of families and communities. This strategy underscored the importance of strengthening partnerships among all levels of government and the private sector, focusing on hazard identification and risk assessment; applied research and technology transfer; public awareness, training, and education; incentives and resources; and leadership and coordination. Two years later FEMA began Project Impact as an initiative to further the goals of the National Mitigation Strategy. This effort included a national awareness campaign, the designation of pilot communities showcasing the benefits of disaster mitigation, and an outreach effort to community and business leaders. It was designed to help protect communities, businesses, and local organizations from the impact of natural disasters before they happen. The rationale for this initiative was based on the principle that constructing stronger buildings, strengthening existing infrastructures, enforcing building codes, and making preparations prior to a disaster will save lives, reduce property damage, and accelerate economic recovery. The initiative intended to build “disaster-resistant communities” through public-private partnerships.

Florida's efforts regarding disaster mitigation were formalized by the *Florida Hazard Mitigation Strategy* developed in 1997 by the Department of Community Affairs (DCA). To enable Florida's communities to be more resistant to the impacts of disasters, a statewide comprehensive plan was required for the coordination and provision of the state's services and resources. Florida's strategy also called for strengthening partnerships among all levels of government and the private sector. Development of a *Local Mitigation Strategy* (LMS) for each of Florida's 67 counties created the foundation for Florida's statewide Hazard Mitigation Strategy. The development of the LMS required broad-based, pre-disaster mitigation planning involving the participation of representatives from local government, the general public, private businesses, and non-profit organizations. The LMS workgroup would prepare a multi-jurisdictional plan that served as a link between the local government comprehensive plans, local emergency management plans, land development regulations, building codes, and other local ordinances. The LMS plan would include hazard identification, vulnerability assessments, risk analyses and a prioritized list of hazard mitigation projects to address local needs.

Actions at the federal level were formalized by the Disaster Mitigation Act of 2000 (DMA2K), signed by the President in October 2000. This federal act, which

was modeled after Florida's LMS process, addressed a variety of mitigation issues, including the establishment of a national program for pre-disaster mitigation and new requirements related to the HMGP. Like Florida's LMS, the DMA2K emphasized state and local entity coordination of mitigation planning and implementation efforts to reduce disaster costs in terms of loss of life, loss of property, and economic disruption. States that demonstrated an increased commitment to comprehensive mitigation planning and implementation through the development of a "State Enhanced Mitigation Plan" would be eligible for increased HMGP funding as long as FEMA approved the enhanced plan within three years prior to the disaster declaration. The Department of Community Affairs in coordination with the State Hazard Mitigation Planning Advisory Team (SHMPAT), has worked with FEMA to develop a State Enhanced Plan for the State of Florida.

The DMA2K also required states to continually review, evaluate and revise their mitigation plans to reflect changes in development, progress in statewide mitigation efforts, and changes in priorities. The updated plans are submitted to FEMA every three years for approval. In addition to the federally required three year review, Florida's LMS process included annual reporting requirements, as well as a review following any major disaster event. After any presidentially declared disaster, LMS reviews are done to address unforeseen weaknesses or reprioritization of hazard mitigation projects identified in their local plans.

### **Federal Hazard Mitigation Grant Process**

States are the recipients of the grants and are responsible for establishing guidelines, soliciting projects, reviewing and recommending projects to FEMA for approval, and managing all approved projects. Prior to July 1997, mitigation grants were provided only to counties that were included in the declared disaster areas. Since then, all areas within a state that have ever received a disaster declaration are eligible for hazard mitigation grants. The Division of Emergency Management, within the Department of Community Affairs, has lead responsibility for administering the HMGP. FEMA granted Florida "Managing State" status which benefits the state through quicker project approval; ability to review, rank, and select projects; pre-approval of environmental reviews; and pre-certification of local hazard mitigation plans. The processes for application, project selection, and distribution of funds for this program are outlined by state agency rules in Chapter 9G-22, Florida Administrative Code. Minimum

criteria for proposals are included to ensure that the most cost-effective and appropriate projects are selected. Eligible applicants (sub-grantees) submit project applications to the state for its review and evaluation. Qualified projects that fall within the available funding are forwarded to the Federal Emergency Management Agency for approval. The LMS Working Group is responsible for selecting and prioritizing local mitigation projects based upon local priorities as provided in the respective county LMS. The local hazard mitigation projects are funded in order of these local priorities, as long as the projects meet program eligibility and can be completed within the allotted performance period.

### **Types of Hazard Mitigation Projects**

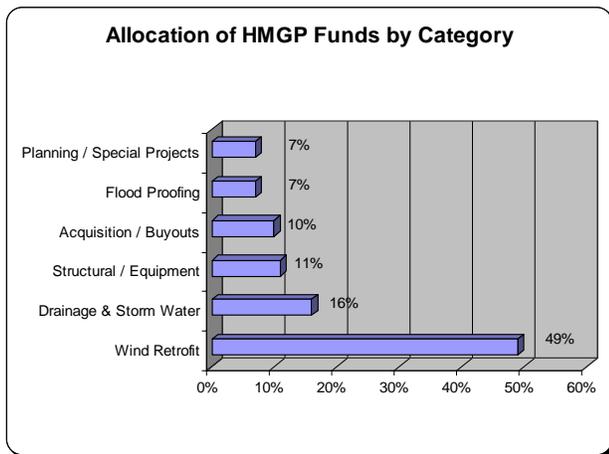
HMGP funds two types of projects --Regular hazard mitigation grant projects and initiative hazard mitigation projects. Both are designed to prevent future damage and loss of life in a community affected by a declared disaster.

*Regular hazard mitigation grant projects* -- For regular projects, the eligible applicant is awarded a hazard mitigation grant directly by FEMA, while the DCA manages the grants on behalf of FEMA. As a condition of the grant the state or applicant receiving the FEMA grant award must provide a 25% non-federal match. This match must come from a non-federal source and can be a combination of funds from state and local government, cash, in-kind services, or a global match. A global match is funding from a project previously completed by an eligible applicant that is similar to the hazard mitigation grant project the local government is applying for and would have met FEMA's hazard mitigation grant criteria. FEMA will allow the cost of this project to substitute for the non-federal match requirement. Examples of regular projects include retrofitting structures to make them more resistant to high wind damage, elevating structures above flood levels, and acquiring property in areas prone to flooding.

*Initiative hazard mitigation projects* -- These projects provide a statewide benefit and do not qualify as regular projects because a cost-benefit analysis cannot readily be done on these projects. For initiative projects, the SHMPAT (serving as the State Working Group) will review and prioritize all proposals for which initiative funds have been requested. Florida Department of Community Affairs submits grant applications based upon the SHMPAT recommendations to FEMA for approval where the state is the sole grantee. Up to 5% of the total hazard

mitigation funds for a specific disaster can be used for initiative projects. Examples of initiative projects include building additional hurricane evacuation shelters, producing public service announcements, and posting disaster information signs on state highways.

HMGP projects fall into seven major categories: wind retrofit; drainage and storm water; flood proofing (structure or equipment); acquisition and buy-out; planning and special projects; public services and information; and miscellaneous projects (e.g., warning, communications, stabilization projects, and others). These projects, taken in the aggregate, have made important contributions to the safety of Florida's communities. The chart below provides the historical allocation of HMGP funds to the major categories.



Source: Department of Community Affairs.

**Funding**

Federal funding available under the HMGP is based on a percentage of the total federal share of costs for public assistance and individual assistance programs for a specific declared disaster. This percentage is established by the federal government and is currently 7.5%.

Following a disaster event, FEMA develops a preliminary estimate of the damages incurred. The initial estimate of federal funds available for the HMGP is then determined from this preliminary amount which does not become final until 12 months after the disaster declaration. Over the last ten years the federal government has provided 75% of the cost of an approved mitigation project, with the remaining 25% (non-federal share) met by state or local funds, in-kind services, global match (which are credits from "similar" projects that have been funded with state and/or local dollars and meet the same federal HMGP

eligibility requirements), or a combination of all of these sources.

**METHODOLOGY**

Senate staff collected and reviewed materials from a variety of sources, including the Florida Department of Community Affairs, the Federal Emergency Management Agency, the Florida Administrative Rules, the state library, the State General Appropriations Acts, and internet sources. Meetings were held with departmental personnel responsible for the oversight and administration of the Hazard Mitigation Grant Program, and staff from the Office of Program Policy Analysis and Government Accountability.

**FINDINGS**

**The hazard mitigation project identification and selection process has been well developed in law and rules and continually refined over the last several years requiring a comprehensive, integrated, and detailed review of local mitigating strategies.** The development of a priority funding list of local mitigation projects is an involved process that incorporates input from a broad based group of local participants who address specific mitigation concerns in their area. This local prioritization process may vary from community to community, but at a minimum includes information on cost effectiveness, technical feasibility and environmental soundness for each project. Once the priority funding list is adopted by the local Mitigation Strategy Working Group for inclusion into the State Mitigation Plan, approval by the state and FEMA is necessary before a project is eligible for federal HMGP funds. Additionally, LMS plan reviews and updates are required at different intervals by both the state and federal government in order to maintain eligibility for HMGP funding.

**The entity responsible for meeting the 25% non-federal match requirement is not specified in federal or state law and has been addressed inconsistently over time.** This non-federal match may include state or local funds, in-kind services, global match or a combination of all of these sources. According to DCA, they have been successful in finding alternative sources of non-federal matching funds for HMGP projects, (excluding administrative and management costs) since Hurricane Floyd in 1999. This is due to the use of global match. State and local governments have realized collective savings of \$31.8 million in matching funds as a result of global match.

This matching process is limited to similar projects funded by state or local government funds in a timeframe consistent with the disaster declaration generating HMGP funds. The global match process has worked well in large communities, but has not been as beneficial in smaller, rural communities

While the percentage of state and local funds used to meet the non-federal match has varied over the last ten years, the policy over the last four years has placed the responsibility of meeting the non-federal share of costs on the applicant.

Due to the timing of HMGP funding (awarded after a Presidential disaster declaration), which does not necessarily coincide with the normal legislative budget request process, the initial budget authority has been established through the Governor's "emergency management" executive order and the budget amendment process outlined in Chapter 216, Florida Statutes. If additional budget authority is needed in succeeding years it is typically appropriated in the General Appropriations Act. There is no statutory language specifying who is responsible for meeting the matching share of costs. Exhibit 1 lists the declared disasters, the federal funds awarded, and federal and non-federal matching percentages associated with the HMGP since 1992. Exhibit 1 shows how, since 1992 both the federal matching percentage and the source of the non-federal share of costs has varied. Prior to the winter freezes in February 2001, the state assisted local applicants in meeting the non-federal matching share of costs. However, subsequent to that time disaster eligible applicants have been required to meet the entire 25% match. Historically, responsibility for meeting the non-federal portion of matching funds has been established through the issuance of an "emergency management" executive order by the Governor, the budget amendment process outlined in Chapter 216, Florida Statutes, or proviso language contained in the General Appropriations Act.

**There is no evidence to suggest that further Legislative oversight beyond the normal annual review is necessary, given the structure of the HMGP, the evaluation and selection processes employed, and the extent of federal and state regulation.** The federal government has established broad program guidelines which states must meet in order to be eligible for federal funding. States have considerable discretion in the design and implementation of the program. Florida's Hazard Mitigation Grant Program Administrative Plan establishes the criteria, procedures and policy for

selecting the projects to be funded. The administrative plan is codified in Chapter 9G-22, Florida Administrative Code. Projects selected for funding are forwarded to FEMA for final approval. The Legislature has had no direct input into the selection of specific hazard mitigation projects. The Office of Program Policy Analysis and Government Accountability surveyed seven of the eight states in FEMA Region IV (Florida is the eighth state), as well as three states outside the region with high hazard mitigation expenditures (California, Texas, and Minnesota). None of the legislative bodies in the states surveyed played a role in the hazard mitigation project selection process.

Historically, the Legislature has provided budget authority for the HMGP (both federal and non-federal match), as well as proviso language limiting the duration of funding and providing for a hardship waiver.

## RECOMMENDATIONS

**The Legislature should continue to monitor the performance and effectiveness of the HMGP in accordance with its oversight responsibilities under s. 11.143, F.S. If the current non-federal match policy changes and the state provides matching funds, then the Legislature should consider taking a more active role in the review and approval of individual hazard mitigation projects.**

**The Department of Community Affairs should continue to maximize the use of "global match" through education, communication, and enhanced coordination with other state and local agencies.**

**The Legislature should provide statutory direction regarding responsibility for the non-federal share of costs associated with the HMGP.** [Note: prior to the release of this report, the Legislature passed House Bill 19A during Special Session 2004A, which among other things modified Section 252.37, Florida Statutes, requiring HMGP applicants to meet the non-federal share of costs. Statutory language was also adopted to allow the Legislature to adjust the non-federal match responsibility in any given fiscal year through the General Appropriations Act.]

## EXHIBIT 1 - HAZARD MITIGATION GRANT PROGRAM

### Federal, State, and Local Match Percentage

From 1992 through 2004

Disaster Name	Date of Declaration	Federal Share (in dollars)	Federal Share	Non-Federal Share (State)	Non-Federal Share (Local)
S. W. FI Floods	August 12, 1992	\$520,338	50%	0%	50%
Andrew	August 24, 1992	\$21,393,340	50%	0%	50%
Tornados	October 8, 1992	\$155,470	50%	0%	50%
Winter Storm	March 13, 1993	\$1,762,500	50%	0%	50%
T. S. Alberto	July 10, 1994	\$3,592,626	75%	25%	0%
T. S. Gordon	October 27, 1994	\$445,383	75%	0%	25%
Erin	August 10, 1995	\$4,845,060	75%	25%	0%
Opal	October 4, 1995	\$20,000,000	75%	25%	0%
S. E. FI Floods	October 27, 1995	\$1,930,494	75%	25%	0%
T. S. Josephine	October 15, 1996	\$861,406	75%	25%	0%
El Nino	January 6, 1998	\$15,442,250	75%	12.5%	12.5%
Groundhog Day	February 12, 1998	\$1,941,265	75%	12.5%	12.5%
Wildfires	June 18, 1998	\$1,738,700	75%	25%	0%
Earl	September 4, 1998	\$270,375	75%	12.5%	12.5%
Georges	September 28, 1998	\$15,291,469	75%	12.5%	12.5%
Mitch	November 6, 1998	\$1,067,622	75%	12.5%	12.5%
Floyd *	September 22, 1999	\$4,130,244	75%	0%	25%
Irene *	October 20, 1999	\$25,867,081	75%	0%	25%
Helene	October 3, 2000	\$3,024,696	75%	12.5%	12.5%
S. F. Floods *	October 5, 2000	\$83,390,027	75%	0%	25%
Freezes	February 6, 2001	\$417,266	75%	0%	25%
Allison	June 17, 2001	\$9,505,039	75%	0%	25%
Gabrielle	September 28, 2001	\$2,765,757	75%	0%	25%
Miami Tornadoes	April 25, 2003	\$877,801	75%	0%	25%
S W FI Floods	July 29, 2003	\$773,989	75%	0%	25%
Charley **	August 13, 2004	\$86,500,802	75%	0%	25%
Frances **	September 4, 2004	\$58,446,316	75%	0%	25%
Ivan **	September 16, 2004	\$64,448,438	75%	0%	25%
Jeanne **	September 26, 2004	\$58,446,316	75%	0%	25%
	Total Federal Funds	\$489,852,070			

\* The non-federal share of matching funds was met through the use of global match.

\*\* The amounts reflected for the federal share for the 2004 disasters are based on preliminary estimates.