

APPENDIX

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FEMA ENVIRONMENTAL DESK REFERENCE

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ENVIRONMENTAL REVIEW ROLES AND RESPONSIBILITIES A GUIDE FOR IMPLEMENTING THE HMGP

This guide is based upon general agreements established in the Hazard Mitigation Grant Program (HMGP) Memorandum of Understanding (MOU) between the California Office of Emergency Services (OES) and the Federal Emergency Management Agency (FEMA). In addition to agreement established in the MOU, this guide is intended to serve as a working document, and it is not binding on any of the parties mentioned. Innovation should be sought when carrying out the environmental review process, so that the partnership is effective in expediting review.

The following is a discussion of roles and responsibilities through general stages in the implementation of the OES and FEMA HMGP grant process. Steps IV and V occur at the stage in the process where OES has prioritized and intends to seek funds for these projects or has submitted projects to FEMA.

I. Briefing

OES informs potential applications of general requirement for California Environmental Quality Act (CEQA) and National Environmental Policy Act (NEPA) review. OES, at its discretion, may request FEMA assistance in early scoping of projects to help develop viable alternatives. OES, at its discretion, may invite FEMA to participate in early project scoping.

OES will emphasize to the applicant the importance of waiting until OES/FEMA have completed environmental reviews before the applicant initiates any action, so as not to jeopardize all HMGP funding.

II. Notice of Interest

OES and FEMA environmental points of contact are established. Discussion occurs between OES and FEMA environmental staff regarding potentially significant issues. OES sends environmental questionnaire for CEQA/NEPA with application packet.

III. OES Selection Committee

OES reviews applications and environmental questionnaire. Potentially significant issues would be considered in the committee's planning decisions. OES environmental contact participates to answer questions.

When an application contains potentially significant environmental issues (e.g. projects in high hazard areas of critical habitat), OES contacts FEMA for a meeting, before or after OES selection. This meeting will involve a discussion of ways to avoid significant issues, and to assure the proposed project has been properly defined, and is eligible under HMGP and FEMA regulations will be discussed.

Upon OES selection of proposed project for HMGP funding, OES will immediately contact the applicants to remind them of their responsibility under CEQA. The applicant will also be informed of FEMA's responsibility to comply with the NEPA process prior to the initiation of any action.

IV. OES Preliminary Review of Pre-approved Proposed Projects for Consideration as a Categorical Exclusion (CAT-EX)

OES reviews application/environmental questionnaire and consults with applicant, as necessary, for a preliminary categorical exclusion determination (considering extraordinary circumstances) per 44 CFR Part 10 for eligible actions pre-approved under the MOU.

OES will make prior contact with authoritative regulatory agencies (e.g. CA Dept. of Fish and Game, county planning departments, etc.) to confirm the proposed project is exempt under the CEQA.

OES will provide in writing a list of those projects, including a scope of work and justification for the categorical exclusion to FEMA (regional) staff, as specified in the MOU. FEMA and OES will meet to review the projects and identify/resolve potential eligibility/environmental issues associated with the proposed projects. FEMA will provide written concurrence regarding eligible projects within time agreed upon by OES & FEMA staff. OES provides FEMA with documentation for Executive Orders 12898, 11988, and 11990m and any determinations on the National Historic Preservation Act (NHPA) exception, as agreed in the MOU.

Formal contacts/consultations required with the U.S. Fish and Wildlife Service (under the Endangered Species Act and Fish and Wildlife Coordination Act) and the State Historic Preservation Office (Under the NHPA and other related laws) are by law the responsibility of the funding agency (FEMA). An initial informal contact by OES or the applicant may be appropriate, but should be done in coordination with FEMA.

Obtaining necessary permits under section 404 of the CWA is the responsibility of the applicant but must be done in coordination with OES and FEMA. The requirement for a special study, formal consultation, or an individual permit under Section 404b of the CWA may identify extraordinary circumstances that may require the preparation of an Environmental Assessment (EA) or Environmental Impact Statement (EIS).

If a special study is requested through the consultation process by another regulatory Federal agency for a proposed project that qualifies for a categorical exclusion, FEMA will initiate the special study, conclude the required consultation, and consider any potential extraordinary circumstance identified by the special study prior to approving the categorical exclusion.

If OES or FEMA determines, through consultation with an appropriate regulatory agency, that extraordinary circumstances exist which can be avoided or sufficiently mitigated, FEMA or OES will reevaluate the action for categorical exclusion after receiving concurrence from the regulatory agency.

If, after consideration of the OES determination and any potential extraordinary circumstances, FEMA determines a proposed project to be categorically excluded from further NEPA review, FEMA prepares and signs an administrative record of action (the CAT-EX document).

V. Other Projects Selected by OES

A. All Other Projects, and Projects Previously Categorically Excluded, but for which There is a Major Change in the Scope of Work for Unforeseen Circumstances.

OES will inform the applicant they should not proceed further. OES will notify FEMA immediately so the project can quickly be reevaluated for extraordinary circumstances, as described above.

B. Projects Which do not Qualify for Categorical Exclusion

If CEQA (Initial Study) and NEPA (Environmental Assessment) documentation are required for the project, OES and FEMA staff will meet with the applicant to develop a shared work tasks to expedite preparation/completion of both documents.

OES must inform the applicant they should not proceed until environmental review is completed, or they risk all HMGP funding. OES will inform FEMA of the proposed project so FEMA can initiate NEPA document preparation as soon as possible. OES will inform FEMA of any other Federal agencies potentially involved (as a funding source) in some aspect of the proposed project or a nearby project, so FEMA can coordinate and determine a lead agency for NEPA review. Where FEMA is the only Federal agency potentially contributing funds to a project, FEMA will oversee the NEPA review.

OES will provide FEMA with the applicant's responses to the application/environmental questionnaire, and any other relevant information OES has available. OES and FEMA will work together with the applicant to develop alternatives, obtain the necessary environmental information, determine if any documentation or studies (including CEQA documentation) exist, conduct site visit, complete necessary environmental consultations, etc., to expedite preparation or both the CEQA and NEPA documents, and prevent delays and duplication of efforts.

VI. EIS and EIR

For projects where significant environmental impacts have been identified and a decision has been made to conduct an Environmental Impact Statement (NEPA) and Environmental Impact Report (CEQA), where possible a joint document will be prepared by FEMA or another designated lead Federal agency. All parties, (FEMA, OES, and applicant), will coordinate in the preparation of the joint document. If there is more than one Federal agency financially involved in an aspect of the project(s) evaluated in the EIS, the Federal agencies will determine the lead agency to oversee the preparation of the NEPA document. Detailed issues regarding specific responsibilities for substantive studies or evaluations will be agreed upon on a case by case basis.