



FREQUENTLY ASKED QUESTIONS (FAQs)

FEMA Funded Voluntary Flood Buyout Program

INTRODUCTION

Your community has experienced a destructive flood that has caused considerable damage to property, as well as major social and economic disruption to the well-being of your community. As a property owner, you understandably are concerned about continuing to live in the floodplain and are interested in how you can avoid future risk and damage. You also want to know how you can do so while minimizing economic losses. We hope these Frequently Asked Questions (FAQs) will help you better assess your options to recover from the flooding you have endured, and to avoid future damages.

WHAT IS A FEMA VOLUNTARY FLOOD BUYOUT PROGRAM?

An eligible municipality or the Lake County Stormwater Management Commission (SMC) voluntarily requests and accepts a federal grant and assumes responsibility and liability for managing a program that offers to its citizens, who own houses in a flood-prone area, an opportunity to sell their residential property to the Lake County SMC through a voluntary flood buyout program.

Under the post-disaster Hazard Mitigation Grant Program (HMGP), seventy-five (75) percent of eligible costs for a project are funded by a Federal Emergency Management Agency (FEMA) grant, generated through and managed by the Illinois Emergency Management Agency (IEMA). The remaining twenty-five (25) percent of the eligible costs are provided by non-federal sources such as the eligible municipality or Lake County. (Note: Other FEMA flood buyout grant programs may have slightly different non-federal match requirements.)

Properties meeting the voluntary flood buyout requirements may be purchased by the Lake County SMC at their (generally pre-flood) fair market value, as established by a State-board certified appraiser procured by the Lake County SMC using a sales comparison approach. (Note: There is an appeals process if the property owner does not agree with the local jurisdiction's appraisal.)

Mobile homes are considered personal property, and as such the type of offer is determined on a case by case basis. Factors to be considered include but may not be limited to whether the owner of the mobile home also owns the land and other factors such as whether the mobile home owner wishes to retain the mobile home and relocate it in lieu of demolition.

Once property is purchased in a buyout, all structures are removed, the utilities are capped, the

ground level, and the property deed restricted to open space use. The land is usually allowed to return to its natural state, and it remains as open space, such as parks, vacant lots, or wetlands. In general, a residential buyout must encompass no more than one (1) acre or less of land to be purchased with the acquisition of a residential structure. Outbuildings and garages located on the same property are considered as part of the buyout package and will be removed during the demolition process. It should be noted that the offer will not be based on “replacement value.”

For the Lake County SMC to provide an offer, the property owner must provide a clear title. A title search will be conducted as part of the grant project. The procured title company must be willing to provide title insurance on a property for it to remain eligible as part of the buyout project. Hopefully, the appraised value, minus any duplication of benefits, lien payments, accrued property taxes, and mortgage settlements, will enable the property owner to have a:

- Greater peace of mind because it reduces or eliminates most future flood risk
- Fair compensation based on pre-flood market value
- Chance for a fresh start

Due to the voluntary nature of acquisition, homeowners are not entitled to assistance under the Uniform Relocation Assistance and Real Property Acquisition Policies Act (URA). However, federal flood buyout program displaced tenants are entitled to assistance under the URA when renting properties acquired under the program. Tenants must submit proof of cost of rent at the displaced residence and proof of cost of rent at decent, safe, and sanitary replacement housing.

Property owners agree to move (or ensure their residential rental tenants move) and all personal property must be removed from the residence by the day of closing. Anything remaining after closing becomes public property and must be disposed of in a public manner (i.e., auction, bids, etc.). The residential structure and any outbuildings are demolished by the Lake County SMC, and proper disposition is made of the debris, in accordance with state and federal environmental laws, rules, and regulations.

The vacant land acquired with the residential structure is deeded to the local municipality or the County, and must by federal statute remain in perpetuity open space deed restricted, and managed by the municipality or Lake County SMC under very strict terms, excepting that related to wetland, agriculture or recreation uses as approved in advance by IEMA and/or FEMA.

WHY IS IT CALLED A VOLUNTARY FLOOD BUYOUT PROGRAM?

It is called a “Voluntary” flood buyout program because participants (i.e., the Federal Government, the State Government, the Local Government and the Property Owner) must voluntarily participate in the program. The Federal Government cannot force the State Government to participate and vice versa. Likewise, the State Government cannot force the Local Government to participate, etc. Moreover, the municipality or Lake County SMC cannot use the community's power of eminent domain to purchase property with federal funds; these must be strictly voluntary acquisitions of the property.

WHAT IS REQUIRED TO BE ELIGIBLE FOR PARTICIPATING IN A FEMA FLOOD BUYOUT PROGRAM?

In Illinois, due to the lack of any federal or state recognized Indian tribe, the eligible applicants for these voluntary flood buyouts includes only communities (i.e., a local municipality or Lake County) that participate in the National Flood Insurance Program (NFIP). Limited funding, the current widespread need for flood buyouts in multiple communities across the state, and competing interests for other mitigation projects such as school tornado safe rooms, community owned bridge and low water crossing replacements, and most importantly, the need to assign a higher priority to residential structures in the interest of the health, safety and welfare of the residents who are at risk and have nowhere else to live precludes IEMA from funding the acquisition of commercial and other types of non-residential properties at this time (i.e., vacation homes, etc.).

As with all FEMA mitigation programs, the voluntary flood buyout programs must be administered in an equitable and impartial manner, without discrimination on the grounds of race, color, religion, nationality, sex, age, economic status, disability or language. The program must comply with Section 308 of the Stafford Act and Title VI of the 1964 Civil Rights Act. All Applicants/Grantees must comply with Title VI, including State and local governments distributing Federal assistance. Applicants (the State) and sub-applicants (municipalities and Lake County SMC) must ensure that no discrimination is practiced. The municipality and Lake County SMC must consider fairness, equity, and equal access when prioritizing and selecting properties to submit with the grant application. Sub-applicants (municipalities and Lake County SMC) must ensure fairness and equal access to homeowners and individuals that benefit from property activities.

To be eligible for the federal funding, both the local municipality and Lake County must have participated in developing and have formally adopted the State and FEMA approved Lake County All-Natural Hazard Mitigation Plan (ANHMP). In addition, the proposed flood buyout project must:

- Conform to the State's 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.

Ownership of acquired property may not be conveyed to private citizens or entities; ownership may be conveyed to other public entities with the approval of the State and FEMA.

WHAT ARE ELIGIBLE PROJECT COSTS?

- Project costs include, but are generally limited to:
- The fair market value (FMV) of each property
- Costs for conducting appraisals, lot surveys, title searches, closings Tenant relocation assistance
- Costs for asbestos identification, demolition, and asbestos abatement

HOW LONG DOES THIS PROCESS TAKE?

The five phases of a flood buyout project include:

Phase I - To Buy or Not to Buy

Time is determined by both the local municipality and Lake County SMC but needs to be expeditious. IEMA may have multiple applications for the same grant funding, and has time limits for submitting grant applications to FEMA to avoid expiration of available funding.

Phase I is the decision-making phase, which empowers the municipalities, Lake County, and citizens to make an informed decision whether or not property acquisition is an appropriate mitigation alternative for the community.

Phase II - Application Illinois State Emergency Management Agency (IEMA)

First 1 – 3 months, depending on how long it takes the municipality and/or Lake County SMC to obtain information from interested property owners and to develop the required Benefit-Cost Analysis (BCA) and application.

During Phase II the Lake County Stormwater Management (SMC) prepares and submits an application through IEMA for the FEMA funds and prepares the community for administering the buyout program, if the project is approved. The application is a complex process and requires detailed documentation; project work schedule timeline and milestones; environmental, endangered species and historic preservation assurances; acceptable Benefit-Cost Analysis (BCA) ratio; prioritized listing of properties to be acquired; prepares the non-binding Voluntary Transaction Agreements from interested property owners; guarantee of adherence to FEMA's "Open Space" deed restrictions in perpetuity, etc. (Note: The Lake County SMC also must coordinate with the Illinois Department of Natural Resources State Historic Preservation Office (SHPO) regarding any structures or property that may have archeological or historic significance, as well as obtain proper permits, avoid doing anything that might harm endangered species, etc.

Phase III – Relocation/Acquisition

Next 6 – 18 months, depending on the number of properties to be acquired, and the time it takes to procure services, perform appraisals, perform title searches, prepare offers, and schedule closings.

During Phase III Lake County accepts the grant, adopts a voluntary buyout project policy, administers the IEMA provided FEMA flood buyout project funds; prepares, advertises,

tabulates bids, gives notices to proceed for property appraisals and title work (including title searches and title insurance); prepares and makes the property offers; coordinates tenant relocation documentation; participates in closings to acquire the of properties and records warranty deeds with “Open Space” restrictions; and prepares, advertises, tabulates bids, makes awards and implements the contracts for asbestos identification demolition/asbestos abatement or mobilizes resources to perform the demolition with Lake County assets.

Phase IV - Demolition

The next 3 – 6 months after the closings of the acquired properties, depending on the number of properties and nature of the contract.

During Phase IV the Lake County SMC oversees the asbestos identification and the demolition/asbestos abatement of the acquired “Open Space” properties, and ensures the refuse is placed in proper disposal sites. Lake County SMC is responsible for ensuring that the asbestos identification, asbestos abatement, and demolition follow all applicable Federal and State laws and requirements.

The price paid for a purchased property includes all items listed at the time of the appraisal. All items on a buyout property become public property at the time of closing. The Lake County SMC contracts with a demolition/asbestos abatement company typically giving the salvage rights to that company. Therefore, if a property owner wishes to remove part of the property that would typically be considered structural (i.e., favorite window or door), and it was property previously appraised, then the appraisal, and possibly the purchase price, must be amended before the closing. Otherwise, the property must be disposed of in a public manner (i.e., auction, bids, etc.)

Phase V - Open Space Management

In perpetuity

During Phase V the local municipality and Lake County SMC plans, manages, monitors for compliance with deed restrictions, and reports to IEMA (every two years) on the use of the acquired “Open Space” deed restricted properties, as required by law, for the long term.

WHAT IS A COST-BENEFIT ANALYSIS (BCA)?

Benefits are future damages that do not occur because a project has been implemented and properties are no longer in harm’s way. Because acquisition projects permanently eliminate flood risks for purchased properties, their benefits continue far into the future. The BCA compares the present-day cost of a project to its long-term benefits. A project is cost-effective if the ratio of the project’s benefits is equal to or higher than the costs. If a property’s BCA ratio is less than 1:1, that property cannot be purchased under this program, unless it can be aggregated into an overall cost-effective project. If the ratio is equal to or greater than 1:1, the property is eligible for acquisition, demolition and deed restriction. FEMA or State financial analysts will work with the Lake County SMC with a Benefit-Cost Analysis (BCA) for each property to be acquired to determine if a voluntary flood buyout project is cost effective.

WHAT IS A NON-FEDERAL MATCH?

- **Cash.** Monetary payments from local government or individual property owners to participate in a flood buyout program can be applied toward the non-federal match.
- **Donated funds.** Monetary donations from individuals and organizations (e.g., a local civic organization) can be applied toward the non-federal match.
- **Payment-In-Kind (PIK) services (or Soft Match).** Donated services (e.g., demolition) provided by the local municipality or Lake County may be applied toward the local match.
- **Property Owners.** Property owners can use their own funds or donate 25 percent of the FMV of their properties. Property owners with flood insurance 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 provide some limited financial assistance to property owners for the cost of mitigation measures, to include elevation, demolition, and relocation. ICC claims apply to structures only.

WHAT IS A DUPLICATION OF BENEFIT (DOB)?

Certain federal disaster assistance and insurance (FEMA, SBA, Insurance, etc.) must be counted toward the purchase price of a home (reducing the final amount paid to the property owner), unless the property owner can document that the money received actually was spent on approved home repairs associated with the flooding. These financial payments paid to homeowners for structural repairs to the flooded property, if not used for the intended purpose, must be deducted from the pre-flood offer made to the property owner. This policy is known as duplication of benefits (DOB).

Each property owner participating in a FEMA flood buyout must sign a statement disclosing all Federal disaster assistance benefits received in conjunction with the event leading to this property acquisition. For this reason, property owners must understand that this is a federally funded grant and that federal laws make it extremely important that property owners disclose any and all previously collected benefits.

However, when property owners retain receipts for any repairs made, the property owner may submit them through the Lake County SMC to IEMA. IEMA then submits the receipts to FEMA for review and approval.

NOTE: RECEIPTS MUST BE FROM BONAFIDE BUSINESSES RECOGNIZED BY LOCAL GOVERNMENTS. THE LABOR OF PROPERTY OWNERS, FRIENDS AND FAMILY FOR CLEANUP AND REPAIR IS NOT ELIGIBLE FOR REDUCING THE DUPLICATION OF BENEFITS.

The below types of disaster assistance that must be considered advances toward the purchase price or replacement housing payment (if receipts cannot be provided indicating proceeds were used for intended purpose) may include:

- **IHP—Individual and Households Program.** IHP grants are awarded to homeowners to make repairs to the home that are deemed necessary to make the dwelling safe, sanitary and secure. This program consolidates the former Disaster Housing and Individual and Family Grant Programs. Only the amount the homeowner receives for home repair will be considered toward the DOB (unless there are receipts of eligible work/repairs submitted to document the use of the funds in the repair of the home).
- **National Flood Insurance Program (NFIP) Settlements.** NFIP deductions must be researched and figured for any homeowner involved in the buyout that received NFIP settlements for real property. Only real property settlements will be deducted (unless the owner has already made repairs and can verify with receipts). (Note: Other private insurance payments such as fire insurance payments may also constitute a duplication of benefit and must be evaluated on a case by case basis.)
- **Small Business Administration.** Any loan(s) for real property that have been disbursed prior to closing must be repaid to SBA, provided there is a balance of funds after all other deductions are computed. If there are any net proceeds after other lien holder deductions, these proceeds must be applied to the outstanding SBA loan. The proceeds will be applied until they are exhausted, or the loan is paid off, whichever comes first. The settlement sheet must identify any DOB that must be deducted from the fair market value, and any payments that are due to the SBA at closing.

HOW ARE PROPERTY TAXES HANDLED?

IEMA and FEMA respect the rights and responsibilities of local municipalities and County governments that voluntarily participate in a flood buyout program. The municipality or Lake County may choose to collect all taxes on a prorated basis or may waive part or all of taxes that may be due. However, IEMA and FEMA expect the collection of such property taxes due to be made in a fair and equitable manner for all property owners.

WHAT IS OPEN SPACE?

Communities must accept responsibility for monitoring and enforcing the proper use of acquired property as “Open Space.” 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. Conservation easements (is a rite of passage over someone else’s land, and can be used to prevent the owner from doing certain things) may also be eligible.

FEMA flood buyout program acquired property must be dedicated and maintained in perpetuity for uses compatible with open space, recreational, or wetlands management practices. No new

structure(s) can be built on the property except for 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 Administrator approves in writing before construction of the structure begins.

The participating municipality or County must comply with the "Open Space" deed restrictions and should submit written details and drawings to IEMA before allowing any use of any kind, on or below any buyout property acquired by FEMA.

ARE THERE ANY OTHER CONSIDERATIONS?

The municipality or County may not use FEMA funds to acquire properties that are contaminated by hazardous materials. If a property contains hazardous materials, it must be cleaned up at the expense of the property owner before it can be acquired.

THE STATE OF ILLINOIS DOES NOT TAKE OWNERSHIP OF THE ACQUIRED PROPERTY OR ANY FUTURE PROPERTY DISPUTES AND IS NOT RESPONSIBLE OR LIABLE IF HAZARDOUS MATERIALS ARE DISCOVERED ON THE PROPERTY, EVEN AFTER IT IS ACQUIRED BY THE MUNICIPALITY OR LAKE COUNTY. IN THIS CASE, THE MUNICIPALITY OR LAKE COUNTY IS RESPONSIBLE AND LIABLE FOR ANY AND ALL ENVIRONMENTAL ISSUES AND COSTS, AS WELL AS FOR ANY FUTURE PROPERTY DISPUTES.

In addition to the Hazard Mitigation Grant Program (HMGP), FEMA offers the Pre-Disaster Mitigation (PDM) program, the Flood Mitigation Assistance (FMA) program, the Repetitive Loss (RL) program, and the Severe Repetitive Loss (SRL) program. The two grant programs, RL and SRL, are designed to reduce or eliminate the long-term risk of flooding to NFIP-insured structures and are aimed at reducing the number of claims paid from the National Flood Insurance Fund (NFIF).

WHAT SHOULD I DO IF I AM INTERESTED IN PARTICIPATING IN A BUYOUT?

Please contact your local municipality or Lake County SMC to express your interest. Thank you!

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