



DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID: FEMA-2021-0011]

Request for Information on FEMA Programs, Regulations, and Policies

AGENCY: Federal Emergency Management Agency, Department of Homeland Security (DHS).

ACTION: Notice and request for information.

SUMMARY: The Federal Emergency Management Agency (FEMA) is issuing this Request for Information (RFI) to receive input from the public on specific FEMA programs, regulations, collections of information, and policies for the agency to consider modifying, streamlining, expanding, or repealing in light of recent Executive orders. These efforts aim to help FEMA ensure that its programs, regulations, and policies contain necessary, properly tailored, and up-to-date requirements that effectively achieve FEMA's mission in a manner that furthers the goals of advancing equity for all, including those in underserved communities, bolstering resilience from the impacts of climate change, particularly for those disproportionately impacted by climate change, and environmental justice.

DATES: Written comments are requested on or before [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. Late-filed comments will be considered to the extent practicable.

ADDRESSES: You may submit comments, identified by Docket ID: FEMA-2021-0011, through the *Federal eRulemaking Portal*: <http://www.regulations.gov>. Follow the instructions for submitting comments.

FOR FURTHER INFORMATION CONTACT: Kristen Shedd, Associate Chief Counsel, Regulatory Affairs Division, Office of Chief Counsel, FEMA-regulations@fema.dhs.gov, 202-646-4105.

SUPPLEMENTARY INFORMATION:

I. Public Participation

Interested persons are invited to comment on this notice by submitting written data, views, or arguments using the method identified in the **ADDRESSES** section.

Instructions: All submissions must include the agency name and Docket ID for this notice. All comments received will be posted without change to <http://www.regulations.gov>. Commenters are encouraged to identify the number of the specific question or questions to which they are responding.

Docket: For access to the docket to read background documents or comments, go to <http://www.regulations.gov>.

II. Background

FEMA seeks this input pursuant to the processes required specifically by Executive Orders 13985, 13990, and 14008 that require agencies to assess existing programs and policies to determine if: (1) agency programs and policies perpetuate systemic barriers to opportunities and benefits for people of color and other underserved groups; (2) additional agency actions are required to bolster resilience to climate change; and (3) agency programs, policies, and activities address the disproportionately high and adverse climate-related impacts on disadvantaged communities. Consistent with Executive Order 13563 and Executive Order 13707, FEMA further seeks this input to ensure that it is implementing its programs in a manner that builds disaster readiness and closes national capability gaps through data-driven approaches and risk-informed preparedness and mitigation investments as well as in delivering the Agency's response and recovery mission sets.

On January 20, 2021, the President issued Executive Order 13985, "Advancing Racial Equity and Support for Underserved Communities Through the Federal Government,"¹ designed to pursue a comprehensive approach to advancing equity for all, including people of color and

¹ 86 FR 7009 (Jan. 25, 2021).

others who have been historically underserved, marginalized, and adversely affected by persistent poverty and inequality. The Executive order defines “equity” as the consistent and systemic fair, just, and impartial treatment of all individuals, including individuals who belong to underserved communities that have been denied such treatment, such as: Black, Latino, and Indigenous and Native American persons, Asian Americans and Pacific Islanders and other persons of color; members of religious minorities; lesbian, gay, bisexual, transgender, and queer (LGBTQ+) persons; persons with disabilities; persons who live in rural areas; and persons otherwise adversely affected by persistent poverty or inequality. It defines “underserved communities” as “populations sharing a particular characteristic, as well as geographic communities, that have been systematically denied a full opportunity to participate in aspects of economic, social, and civic life, as exemplified by the list in the preceding definition of ‘equity.’”

Executive Order 13985 further requires each agency to assess whether, and to what extent, its programs and policies perpetuate systemic barriers to opportunities and benefits for people of color and other underserved groups with the goal of developing policies and programs that deliver resources and benefits equitably to all. The Executive order requires agencies to consult with members of communities that have been historically underrepresented in the Federal Government and underserved by, or subject to discrimination, in Federal policies and programs.

On the same day, the President issued Executive Order 13990 “Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis.”² The order requires agencies to review and take action to address the promulgation of Federal regulations and other actions in conflict with the objectives of improving public health and protecting the environment by, among other things, bolstering resilience to the impacts of climate change. In taking these actions, agencies were directed to seek input from the public and stakeholders, including: State,

² 86 FR 7037 (Jan. 25, 2021).

local, Tribal, and territorial officials; scientists; labor unions; environmental advocates; and environmental justice groups.

Finally, on January 27, 2021, the President issued Executive Order 14008 “Tackling the Climate Crisis at Home and Abroad.”³ This order directs agencies to move quickly to build resilience, at home and abroad, against impacts of climate change and to prioritize action on climate change in policymaking. Additionally, the order requires agencies to develop programs, policies, and activities to deliver environmental justice and address the disproportionately high and adverse climate-related impacts on disadvantaged communities. To facilitate these actions, agencies are required to engage with State, local, Tribal, and territorial governments; workers and communities; and leaders across all sectors of our economy.

Executive Order 13563, “Improving Regulation and Regulatory Review,” directs agencies to “identify the best, most innovative, and least burdensome tools for achieving regulatory ends.” Executive Order 13563 is affirmed in the President’s Memorandum of January 20, 2021, Modernizing Regulatory Review. Executive Order 13707, “Using Behavioral Insights to Better Serve the American People,” directs agencies to design “programs and policies to reflect our best understanding of how people engage with, participate in, use, and respond to those policies and programs.” Executive Order 13707 is affirmed in the President’s Memorandum of January 27, 2021, Restoring Trust in Government through Scientific Integrity and Evidence-Based Policymaking.

Pursuant to these Executive orders and presidential memoranda, FEMA issues this RFI to gather information on the extent to which the existing agency programs, regulations, and policies (1) perpetuate systemic barriers to opportunities and benefits for people of color and other underserved groups; (2) bolster resilience to the impacts of climate change; and (3) address the disproportionately high and adverse climate-related impacts on disadvantaged communities.

³ 86 FR 7619 (Feb. 1, 2021).

Among other things, FEMA seeks concrete information about unnecessary or unjustified administrative burdens that may create the systemic barriers in (1).

It is important to note that FEMA continually evaluates its programs and policies, as well as the regulatory program for rules that are candidates for modification, streamlining, expansion, or repeal. FEMA does so through legally mandated review requirements (e.g., Unified Agenda reviews and reviews under section 610 of the Regulatory Flexibility Act) and through other informal and long-established mechanisms (e.g., use of Advisory Councils, feedback from FEMA field personnel, input from internal working groups, and outreach to regulated entities and the public). This *Federal Register* notice supplements these existing extensive FEMA regulatory and program review efforts.

II. FEMA's Programs

FEMA's mission is to help people before, during, and after disasters, which it carries out through its core values and guiding principles. FEMA's core values are compassion, fairness, integrity, and respect (which includes respect for human dignity). FEMA's guiding principles are accountability, accessibility, empowerment, engagement, flexibility, getting results, preparation, stewardship, and teamwork.⁴ The agency carries out its mission through the Office of the Administrator, multiple program offices, and ten regional offices located throughout the United States. The two key operational program offices are the (1) Office of Response and Recovery; and (2) Resilience.

The Office of Response and Recovery provides guidance, leadership, and oversight to build, sustain, and improve the coordination and delivery of support to citizens and State, local, Tribal and territorial (SLTT) governments to save lives, reduce suffering, protect property and recover from all hazards. The Response Directorate within the Office of Response and Recovery provides funding for 28 national task forces staffed and equipped to assist State and local governments conduct around-the-clock search-and-rescue operations following a Presidentially

⁴ https://www.fema.gov/sites/default/files/2020-03/core-values-placemat_2019.pdf.

declared major disaster or emergency under the Stafford Act (e.g., earthquakes, tornadoes, floods, hurricanes, aircraft accidents, hazardous materials spills and catastrophic structure collapses). The Recovery Directorate within the Office of Response and Recovery provides two key assistance programs for disaster recovery: (1) the Individual Assistance program; and (2) the Public Assistance program. The Individual Assistance (IA) program provides direct assistance to individuals and households, as well as SLTT governments to support recovery efforts nationwide. Pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act,⁵ IA delivers five statutory disaster programs and one non-disaster program, coordinates Mass Care and Emergency Assistance, and collaborates with other Federal agencies, SLTT governments, and non-profit, faith-based, and voluntary organizations to provide support for disaster survivors. IA programs include housing assistance (financial assistance to repair or replace personal property), other needs assistance (to pay for expenses caused by the disaster including medical or dental expenses or losses, funeral expenses, child care expenses, transportation expenses, moving and storage expenses, cleaning and removal expenses, critical needs expenses, and other miscellaneous expenses), crisis counseling, disaster unemployment, disaster legal services, and disaster case management. IA also delivers the Emergency Food and Shelter Program, which supplements and expands the ongoing work of local social service organizations to provide shelter, food, and supportive services to those experiencing, or at risk of, hunger or homelessness. The Public Assistance (PA) program supports communities' recovery from major disasters by providing them with assistance for debris removal, emergency protective measures, and restoring public infrastructure. SLTT governments, as well as certain private non-profit organizations, are eligible for Public Assistance.

Resilience seeks to build a culture of preparedness through insurance, mitigation, continuity, preparedness programs, and grants. The Federal Insurance and Mitigation

⁵ Robert T. Stafford Disaster Relief and Emergency Assistance Act, Pub. L. 93-288, as amended, 42 U.S.C. 5121 *et seq.*

Administration (FIMA) within Resilience administers the National Flood Insurance Program (NFIP) and other programs designed to reduce future losses to homes, businesses, schools, public buildings, and critical facilities from floods, earthquakes, tornadoes, and other natural disasters. FIMA works to increase awareness of flood risk through identification and publication of flood hazard information; reduce the impact of floods and other natural hazards through hazard mitigation, floodplain management, and building codes; provide insurance to property owners to speed recovery from flood events; and diminish the impact that disasters and emergency management decisions have on the nation's natural and cultural resources. FIMA also administers and manages the following FEMA hazard mitigation assistance programs:⁶ (1) Hazard Mitigation Grant Program (HMGP); (2) HMGP Post Fire Grant Program; (3) Flood Mitigation Assistance; (4) Building Resilient Infrastructure and Communities (BRIC); and the following FEMA resilience grant programs: (1) National Dam Safety Program Grants; (2) High Hazard Potential Dam Grant Program; and (3) National Earthquake Hazards Reduction Program State Assistance. The Grant Programs Directorate (GPD) within Resilience provides Federal assistance to measurably improve capability and reduce the risks the nation faces in times of man-made and natural disasters. GPD administers and manages the following FEMA preparedness grant programs: (1) Emergency Management Performance Grant Program; (2) Assistance to Firefighters Grant Program; (3) Homeland Security Grant Program; (4) Tribal Homeland Security Grant Program; (5) Intercity Bus Security Grant Program; (6) Intercity Passenger Rail Grant Program; (7) Presidential Residence Protection Assistance; (8) Regional Catastrophic Preparedness Grants Program; (9) Transit Security Grant Program; (10) Port Security Grant Program; (11) Nonprofit Security Grant Program; (12) Staffing for Adequate Fire and Emergency Response Grant Program; and (13) Fire Prevention and Safety Grant Program. The National Preparedness Directorate (NPD) within Resilience also administers a range of non-

⁶ On January 1, 2021, Congress passed the Safeguarding Tomorrow through Ongoing Risk Mitigation (STORM) Act, Pub. L. 116-284, which authorizes a hazard mitigation revolving loan program. FEMA is currently developing an implementation strategy for the program.

disaster grant programs, including: (1) National Incident Management System (NIMS); (2) Emergency Management Baseline Assessment Grant (EMBAG); (3) Homeland Security National Training Program (HSNTP) - National Domestic Preparedness Consortium (NDPC) and Homeland Security Preparedness Technical Assistance Program (HSPTAP); and (4) United States Fire Administration (USFA) State Fire Systems Training Grant Program.

FEMA seeks specific input from the public regarding the programs, regulations, collections of information, and policies implemented by the Office of Response and Recovery and Resilience. FEMA is seeking information and input from the public regarding these key programs and their regulations and policies as part of the agency's efforts to ensure it is operating its programs in compliance with the Executive orders detailed above.

III. Request for Input

A. Importance of Public Feedback

A central tenet of each of the Executive orders is the critical and essential role of public input in driving and focusing FEMA review of its existing programs, regulations, and policies. Because the impacts and effects of federal regulations and policies tend to be widely dispersed in society, members of the public are likely to have useful information, data, and perspectives on the benefits and burdens of our existing programs, regulations, information collections, and policies. Given the importance of public input, FEMA is seeking broad public feedback to facilitate these program reviews in the context of equity for all, including those in underserved communities, bolstering resilience to the impacts of climate change, particularly for those disproportionately impacted by climate change, and environmental justice. In a period in which disasters of many kinds may become more common, in part because of climate change, it is essential to reevaluate programs to reduce unnecessary barriers to participation and effectiveness, to serve all communities, to increase equity, and to promote preparedness.

B. Maximizing the Value of Public Feedback

This notice contains a list of questions, the answers to which will assist FEMA in identifying those programs, regulations, and/or policies that may benefit from modification, streamlining, expansion, or repeal in light of the Executive orders. FEMA encourages public comment on these questions and seeks any other data commenters believe are relevant to FEMA's review efforts. The type of feedback that is most useful to the agency includes feedback that identifies specific programs, regulations, information collections, and/or policies that could benefit from reform; feedback that refers to specific barriers to participation; feedback about how to improve risk perception; feedback that offers actionable data; and feedback that specifies viable alternatives to existing approaches that meet statutory obligations. For example, feedback that simply states that a stakeholder feels strongly that FEMA should change a regulation but does not contain specific information on how the proposed change would impact the costs and benefits of the regulation, is much less useful to FEMA. FEMA is looking for new information and new data to support any proposed changes.

Highlighted below are a few of those points, noting comments that are most useful to FEMA, guided by corresponding principles. Commenters should consider these principles as they answer and respond to the questions in this notice.

- Commenters should identify, with specificity, the program, regulation, information collection, and/or policy at issue, providing the Code of Federal Regulation (CFR) citation where appropriate.
- Commenters should identify, with specificity, administrative burdens, program requirements, information collection burdens, waiting time, or unnecessary complexity that may impose unjustified barriers in general, or that may have adverse effects on equity for all, including individuals who belong to underserved communities that have been denied equitable treatment, such as Black, Latino, and Indigenous and Native American persons, Asian Americans and Pacific Islanders and other persons of color; members of religious minorities; lesbian, gay, bisexual, transgender, and queer

(LGBTQ+) persons; persons with disabilities; persons who live in rural areas; and persons otherwise adversely affected by persistent poverty or inequality.

- Commenters should identify, with specificity, small or large reforms that might be justified in light of the risks posed by climate change, whether those reforms involve preparedness, mitigation, or other steps to reduce suffering.
- Commenters should provide, in as much detail as possible, an explanation why a program, regulation, information collection, and/or policy should be modified, streamlined, expanded, or repealed, as well as specific suggestions of ways the agency can better achieve its statutory and regulatory objectives in light of the Executive orders cited.
- Commenters should provide specific data that document the costs, burdens, and benefits of existing requirements to the extent they are available. Commenters might also address how FEMA can best obtain and consider accurate, objective information and data about the costs, burdens, and benefits of existing programs and regulations and whether there are existing sources of data that FEMA can use to evaluate the post-promulgation effects of its regulations over time.
- Particularly where comments relate to a program's costs or benefits, comments will be most useful if there are data and experience under the program available to ascertain the program's actual impact.

C. List of Questions for Commenters

The below non-exhaustive list of questions is meant to assist members of the public in the formulation of comments and is not intended to restrict the issues that commenters may address.

FEMA has divided the list into a series of general questions which may be answered as applicable to any of FEMA's programs and specific questions that solicit more targeted feedback:

General Questions:

(1) Are there FEMA programs, regulations, and/or policies that perpetuate systemic barriers to opportunities and benefits for people of color and/or other underserved groups as defined in Executive Order 13985 and, if so, what are they? How can those programs, regulations, and/or policies be modified, expanded, streamlined, or repealed to deliver resources and benefits more equitably?

(2) Are there FEMA programs, regulations, and/or policies that do not bolster resilience to impacts of climate change, particularly for those disproportionately impacted by climate change, and, if so, what are they? How can those programs, regulations, and/or policies be modified, expanded, streamlined, or repealed to bolster resilience to the impacts of climate change?

(3) Are there FEMA programs, regulations, and/or policies that do not promote environmental justice? How can those programs, regulations, and/or policies be modified, expanded, streamlined, or repealed to promote environmental justice?

(4) Are there FEMA programs, regulations, and/or policies that are unnecessarily complicated or could be streamlined to achieve the objectives of equity for all (including people of color and others who have been historically underserved, marginalized, and adversely affected by persistent poverty and inequality), bolstering resilience to climate change, or addressing the disproportionately high and adverse climate-related impacts on disadvantaged communities in more efficient ways? If so, what are they and how can they be made less complicated and/or streamlined?

(5) Are there any FEMA regulations and/or policies that create duplication, overlap, complexity, or inconsistent requirements within FEMA programs, other DHS components, or any other Federal Government agency that impact equity, resilience to the effects of climate change, and/or environmental justice? If so, what are they and how can they be improved or updated to meet the required objectives of equity, resiliency, and environmental justice?

(6) Does FEMA currently collect information, use forms, or require documentation that impede access to FEMA programs and/or are not effective to achieve statutory, regulatory,

and/or program objectives? If so, what are they and how can FEMA revise them to reduce burden, save time or costs, increase simplification and navigability, reduce confusion or frustration, and increase equity in access to FEMA programs and achieving statutory and/or regulatory objectives?

(7) Are there FEMA regulations and/or policies that have been overtaken by technological developments? Can FEMA leverage new technologies to modify, streamline, or do away with existing regulatory and/or policy requirements? If so, what are they and how can FEMA use new technologies to achieve its statutory and regulatory objectives in light of the Executive orders cited?

(8) Are there any FEMA regulations and/or policies that are duplicative, overlapping, or contain inconsistent requirements generally? Are there areas where FEMA's regulations create duplicative, overlapping, or difficult to navigate situations for individuals also navigating regulatory requirements of another Federal Government agency?

(9) Are there existing sources of data that FEMA can use to evaluate the post-promulgation effects of regulations over time? Or, are there sources of data that FEMA can use to evaluate the effects of FEMA policies or regulations on equity for all, including individuals who belong to underserved communities?

(10) What successful approaches to advance equity and climate resilience have been taken by State, local, Tribal, and territorial governments, and in what ways do FEMA's programs present barriers or opportunities to successful implementation of these approaches?

(11) Are there FEMA regulations, programs, or processes that create barriers to mitigation, response, recovery, or resilience for a specific industry or sector of the economy, geographic location within the United States, or government type (e.g. a specific tribal or territorial government or a specific local government)?

In addition to these general questions, FEMA seeks specific input on the programs described above.

Specific Questions:

- (1) Individual Assistance: Are there regulations and/or policies that act as a barrier to people of color and others who have been historically underserved, marginalized, and adversely affected by persistent poverty, inequality, and climate change?
- (2) Public Assistance: Are there measures FEMA could take to more effectively bolster or incentivize resilience to the impacts of climate change?
- (3) National Flood Insurance Program: Are there regulations and/or policies that disincentivize purchasing flood insurance, particularly by lower-income communities, communities of color, and Tribal communities? Are there measures FEMA could take to increase nationwide the number of flood-insured homes in the general population and particularly in lower-income communities, communities of color, and Tribal communities?
- (4) Hazard Mitigation Programs: Are there measures FEMA could take to prioritize funding to mitigate the disproportionate impact climate change has on the most vulnerable in society, particularly lower-income communities, communities of color, and Tribal communities?
- (5) Preparedness Grant Programs: Are there measures FEMA could take to improve our Preparedness Grant Programs to ensure the funding provided to our State and local partners and other stakeholders addresses the domestic terrorism threats currently faced, particularly when those threats impact or target groups that have been historically underserved or subjected to discrimination? What should FEMA address beyond the types of activities these grants support the priority areas on which we ask our State, local, and Tribal partners and other stakeholders to should focus; and the risk methodologies to use in determining how to allocate funding?

FEMA notes that this notice is issued solely for information and program-planning purposes. Responses to this notice do not bind FEMA to any further actions related to the response.

Robert J. Fenton,
Senior Official Performing the Duties of the Administrator,
Federal Emergency Management Agency.

