FEMA Funding for Energy Resilience: Highlighting the Role of State Legislatures

Key Considerations for Securing Funding Through the Building Resilient Infrastructure and Communities Program and the Hazard Mitigation Grant Program

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Introduction

Through FEMA’s Hazard Mitigation Grant Program (HMGP) and Building Resilient Infrastructure and Communities (BRIC) Program, state legislatures can leverage their leadership role to expand and improve energy resilience in their communities, lessening the impact of disasters and energy emergencies. State legislatures shape the overall response to emergencies and facilitate recovery in how they define agency roles, establish priorities and allocate funding.

While these FEMA funds can be used to strengthen various types of infrastructure, energy projects are a potential focal point because energy is essential for daily life and all other critical infrastructure sectors depend on power or fuel to operate. Prioritizing or supporting the development of energy projects ensures communities continue to benefit from a stable supply of energy. From an energy perspective, the funds may be used to harden electric infrastructure, relocate hazard-prone infrastructure, install renewable energy generation or storage, and for microgrids, among other projects. Mitigation projects and planning, building code enforcement, project scoping and related management costs may also be covered.

Considerations for State Legislatures

Some key considerations exist for state legislatures to maximize and effectively leverage HMGP and BRIC funding for energy projects. Addressing these considerations can increase the chances your state’s HMGP and BRIC applications will be accepted and that projects will be successful.

States must have a FEMA-approved hazard mitigation plan to receive HMGP and BRIC funds. Any local government subapplicants usually must also have an approved hazard mitigation plan. While state legislatures do not directly develop plans, they can ensure state agencies and local governments update their mitigation plans regularly. In the face of new threats and more extreme weather events, state legislatures can also prioritize energy resources in these plans by requiring that the plans address energy resilience to various disasters. State legislatures may further require mitigation planning to include energy officials, utility regulators and energy stakeholders to provide input on energy resilience needs.
COORDINATE TO LEVERAGE AVAILABLE FUNDS

Legislatures can also prioritize energy resilience in response to natural disasters and require prompt coordination between executive and legislative leaders during an emergency. For example, state legislatures have established statute that allows for special committees to be stood up after a disaster declaration. These committees, as in the case of North Carolina, can quickly direct funds or state efforts toward energy projects that would be eligible for either HMGP or BRIC disaster mitigation programs. In other words, state legislatures help establish the conditions under which energy projects are prioritized and provide oversight to ensure this happens. North Carolina Statute 113B 20-22 establishes the Energy Policy Council as the single energy emergency coordinating body and, upon a disaster declaration, automatically creates a legislative energy crisis management committee to lead the legislative response. This can also help states prioritize energy resilience, plan specifically for energy emergencies, and direct legislative efforts and funding toward energy projects eligible for HMGP or BRIC.

State legislatures may also direct Public Utility Commissions (PUCs) to pursue resilience to reduce the cost and frequency of energy emergencies. For example, New Jersey SB 2607 (P.L. 2021, Ch. 6) requires municipalities to add a sub-element to their land use master plans that addresses utilities’ vulnerability to extreme weather and climate change hazards. This may encourage local efforts to harden electric infrastructure and influence utility investments toward long-term resilience, which can be used to apply for and leverage HMGP or BRIC funding. Requirements like these and resulting local planning actions—including energy infrastructure planning—may be highlighted by the state in HMGP or BRIC subapplications to best position the state to receive funding for energy resilience. Specifically relating to HMGP, Dakota Energy in South Dakota used grants to underground power lines following a severe ice storm, protecting a main feeder line and ensuring resilient power for vulnerable residents and businesses. Taking another route, Illinois HB 3523 expanded the state’s definition of “disaster” to include cyber incidents, allowing state agencies to react to these types of emergencies with the same tools they bring to bear against other disasters, including relevant disaster funding and cybersecurity investments.

Dedicated state funding for energy projects can also provide required matching funds, or lawmakers can require private entities benefitting from the project to contribute. Following Tropical Storm Irene in 2011, which knocked out power to portions of Connecticut for 10 days, the legislature created its Microgrid Grant and Loan Program (P.A. 12-148 Sec. 7) with $15 million to help municipalities and utilities build microgrids near critical facilities. It also allows the state energy office to develop new financing mechanisms designed to leverage additional funding—like HMGP or BRIC—for microgrid projects. The $15 million funding cap was lifted, and to date over $25 million has been awarded through the program to support municipal microgrids. Connecticut Rep. Mary Mushinsky said dealing with disasters and keeping essential functions operational has consistently been the legislature’s main goal for the microgrid program. These state funds could readily provide the required match for HMGP or BRIC grants and provide opportunities for the state to pursue projects that could be supplemented by HMGP or BRIC. For new energy proj-
ects, starting small can help build momentum for future projects. Washington, D.C., was recently awarded BRIC funds to construct a microgrid supplying resilient power to the local St. Elizabeth’s hospital campus and 911 call center, benefitting a long-underserved community. Future efforts to expand on this project could leverage further BRIC or HMGP funding to build on the project in concert with the D.C. Council and community stakeholders.

A major potential hurdle for the success of new energy resilience projects—one specifically identified by staff handling the Washington, D.C., St. Elizabeth’s Hospital Microgrid project—is regulatory uncertainty. **State legislatures have the power to step in and clarify regulatory uncertainty** around, for example, who will own and operate new generation and transmission resulting from HMGP/BRIC projects. State legislatures can also remove interconnection and regulatory barriers to new energy generation. Overcoming challenges like this can be very important for the long-term success of HMGP and BRIC projects.

**Local applicants often have limited resources to complete all the requirements to submit an HMGP or BRIC application.** Legislatures can assist localities and other applicants in acquiring this type of technical assistance. They also have the authority to require that state hazard mitigation plans prioritize disadvantaged communities for technical assistance in their sections on “Coordination of Local Mitigation Planning” required under 44 CFR 201.4(c)(4). Alternatively, for the BRIC program, both state applicants and subapplicants can go to FEMA and apply for direct technical assistance. This non-financial assistance will be provided for up to 20 communities per year to support application development and overcome other technical challenges. An approved HMP is not required to be considered for direct technical assistance. For FY 2020, nine states and three tribes applied for direct technical assistance under the BRIC program.

**Applications will be evaluated in part on how they will benefit vulnerable and underserved communities.** The BRIC qualitative criteria reflect a preference for such projects. Some states have encouraged investments in energy resilience for low-income residents that can strengthen HMGP and BRIC applications, improve grid stability, and reduce energy burdens. Some applications with this focus have already been approved and are in development, including Illinois’ Bronzeville Microgrid Project, which prioritized clean energy access and reliability for low-income residents. The project was made possible in part by the Future Energy Jobs Act of 2016 and the legislature’s focus on distributed energy resources as an electricity reliability asset, and was able to leverage HMGP funding to cover some of its $29.6 million price tag. Washington, D.C., law requires equity assessments of many policies and focuses its own energy resilience efforts on underserved areas that lose power most often. Washington D.C.’s microgrid project reflects this statutory priority in supporting mostly underserved residents.
In addition to resilience, applications need to show cost-effectiveness—i.e. the future risk reduction benefits of a hazard mitigation project must exceed the cost of the project. While infrastructure projects tend to be expensive, the risk/damage they can mitigate along with the benefits to the community can often exceed the large project cost. Legislatures should consider how HMGP or BRIC projects can be designed to reduce risk of lengthy power outages and prevent the need to rebuild energy infrastructure after disasters, maximize overall community benefits and how state laws can incentivize or encourage such projects. This might include prioritizing programs and local project funding to those projects expected to reduce energy costs. Knowing how FEMA calculates cost effectiveness can help states evaluate their own projects and programs.

### Basic Eligibility and Requirements for HMGP and BRIC*

#### Hazard Mitigation Grant Program (HMGP)

- Available for post-disaster projects: rebuilding with a focus on mitigating future losses. A COVID-19 disaster was declared for all states, opening up HMGP funds. The Biden administration made $3.46 billion available for HMGP to mitigate climate change impacts.

- Applicants must have a FEMA-approved state or tribal Hazard Mitigation Plan (HMP) by the application deadline and at the time of obligation of grant funds for both project and planning grants.

- For project grants, subapplicants must have a FEMA-approved Local or Tribal Hazard Mitigation Plan by the time funds are obligated, but do not need an HMP for planning grants.

- 25% of the project must be funded by non-federal sources.

- Funds can come from state or local government, individuals, construction labor, funds from a flood insurance policy, Small Business Administration loans, etc.

- States must designate one agency to submit application; can include unlimited number of subapplicants.

- Subapplicants must meet the state applicant’s requirements and deadlines and adhere to the state applicant’s priorities.

#### Building Resilient Infrastructure and Communities (BRIC)

- Available for pre-disaster projects: mitigating hazard and threats before a disaster occurs. $1 billion was available in fiscal year 2021, with $919 million distributed through competitive grants.

- For project grants, applicants must have a FEMA-approved state or tribal Hazard Mitigation Plan by the application deadline and at the time of obligation of grant funds.

- Planning grants do not require an HMP. Subapplicants must also have a FEMA-approved Local or Tribal Hazard Mitigation Plan by the application deadline and when funds are obligated for project grants.

*This list is not all inclusive; more eligibility details can be found on FEMA’s [HMGP](https://www.fema.gov/hazard-mitigation-grant-program) and [BRIC](https://www.fema.gov/building-resilient-infrastructure-communities) webpages*
### Basic Application Requirements and Selection Criteria

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<th>HMGP</th>
<th>BRIC</th>
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<td>• Eligibility and Project Selection Criteria: Details on eligibility and project selection criteria can be found on FEMA’s HMGP webpage and in the Code of Federal Regulations, Part 206.</td>
<td>• BRIC Technical Criteria: Explains the eight technical criteria used to evaluate BRIC applications.</td>
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<td>• HMGP Administrative Checklist: A plan for use of HMGP funds must be approved before receiving HMGP grants. This page lists the minimum criteria plans must include for FEMA approval.</td>
<td>• BRIC Qualitative Criteria: Explains the six qualitative criteria used to evaluate BRIC applications.</td>
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<td>• Application Process: Explains project scoping, project development, and project submission.</td>
<td>» Through the competitive grant process, both technical and qualitative criteria are given a score, which is then used to rank applications.</td>
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<td>• Application Process: Explains how to submit applications and where to find more assistance.</td>
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### Additional Resources

- **Natural Disaster State Policy Recommendations: NCSL Public Private Partnership on Disaster Mitigation and Recovery:** Some best practices and considerations for states to mitigate disasters generally, including through public private partnerships and intergovernmental coordination.
- **NARUC Federal Funding Opportunities Guidebook:** Reviews hazard mitigation funding opportunities such as HMGP and BRIC that are available to states and includes project examples, timeframe, etc. Some of these funds may be pursued in coordination with or at the direction of state legislatures.
- **FEMA Hazard Mitigation Action Portfolio:** Brief hazard mitigation case studies, which are meant to help potential applicants and subapplicants identify their own projects and apply for grants like HMGP and BRIC.
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