

**FEMA Is Not Effectively  
Administering a Program to  
Reduce or Eliminate Damage  
to Severe Repetitive Loss  
Properties**





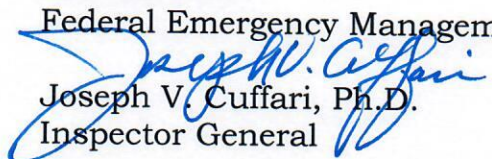
## OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

Washington, DC 20528 / [www.oig.dhs.gov](http://www.oig.dhs.gov)

September 8, 2020

MEMORANDUM FOR: The Honorable Pete T. Gaynor  
Administrator  
Federal Emergency Management Agency

FROM:   
Joseph V. Cuffari, Ph.D.  
Inspector General

SUBJECT: *FEMA Is Not Effectively Administering a Program to Reduce or Eliminate Damage to Severe Repetitive Loss Properties*

Attached for your information is our final report, *FEMA Is Not Effectively Administering a Program to Reduce or Eliminate Damage to Severe Repetitive Loss Properties*. We incorporated the formal comments provided by your office.

The report contains three recommendations aimed at improving FEMA's management of severe repetitive loss properties covered by the National Flood Insurance Program. Your office concurred with all three recommendations. Based on information provided in your response to the draft report, we consider recommendation 2 open and unresolved. As prescribed by the Department of Homeland Security Directive 077-01, *Follow-Up and Resolutions for the Office of Inspector General Report Recommendations*, within 90 days of the date of this memorandum, please provide our office with a written response that includes your (1) agreement or disagreement, (2) corrective action plan, and (3) target completion date for each recommendation. Also, please include responsible parties and any other supporting documentation necessary to inform us about the current status of the recommendation. Until your response is received and evaluated, the recommendation will be considered open and unresolved.

Based on information provided in your response to the draft report, we consider recommendations 1 and 3 open and resolved. Once your office has fully implemented the recommendations, please submit a formal closeout letter to us within 30 days so that we may close the recommendations. The memorandum should be accompanied by evidence of completion of agreed-upon corrective actions and of the disposition of any monetary amounts. Please send your response or closure request to [OIGAuditsFollowup@oig.dhs.gov](mailto:OIGAuditsFollowup@oig.dhs.gov).



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Consistent with our responsibility under the *Inspector General Act*, we will provide copies of our report to congressional committees with oversight and appropriation responsibility over the Department of Homeland Security. We will post the report on our website for public dissemination.

Please call me with any questions, or your staff may contact Sondra McCauley, Assistant Inspector General for Audits, at (202) 981-6000.

Attachment

cc:

David Maurstad, Deputy Associate Administrator for Insurance and Mitigation,  
FEMA



# DHS OIG HIGHLIGHTS

## *FEMA Is Not Effectively Administering a Program to Reduce or Eliminate Damage to Severe Repetitive Loss Properties*

September 8, 2020

### Why We Did This Audit

Severe repetitive loss (SRL) properties are those that flood repeatedly, causing significant difficulties for property owners. The objective of this audit was to determine to what extent the Federal Emergency Management Agency (FEMA) is managing SRL properties covered by the National Flood Insurance Program (NFIP).

### What We Recommend

We made three recommendations to FEMA to ensure accuracy of the SRL list, as well as timely and equitable distribution of mitigation funding, and to promote the use of NFIP Increased Cost of Compliance coverage.

#### **For Further Information:**

Contact our Office of Public Affairs at (202) 981-6000, or email us at [DHS-OIG.OfficePublicAffairs@oig.dhs.gov](mailto:DHS-OIG.OfficePublicAffairs@oig.dhs.gov)

### What We Found

FEMA is not adequately managing SRL properties covered by NFIP. FEMA has not established an effective program to reduce or eliminate damage to SRL properties and disruption to life caused by repeated flooding.

First, FEMA does not have reliable, accurate information about SRL properties. This deficiency occurred because of ambiguous FEMA forms to request removal of SRL designation, poor organizational structure, and unassigned roles for ensuring SRL data integrity. As a result, FEMA is using inaccurate information to make funding-related decisions, including requesting appropriations from Congress, deciding where to implement large-scale mitigation projects, and determining which residential mitigation projects to fund through its Flood Mitigation Assistance grant program (FMA). Additionally, not all NFIP policyholders who have mitigated their SRL property have benefited from reduced policy premiums.

Second, FEMA's FMA, which aims to mitigate flood damage for NFIP policyholders, provides neither equitable nor timely relief to SRL applicants. We attribute this inefficiency to decentralized FMA grant application requirements and inadequate enforcement of grant requirements. FEMA could strengthen its approach to mitigating risk to SRL properties by promoting the use of Increased Cost of Compliance coverage, which is included in NFIP flood policies to assist with mitigation, and could make mitigation relief funding more timely and equitable.

### FEMA Response

FEMA concurred with all three of our recommendations. We included a copy of FEMA's response in its entirety in appendix B.



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**Abbreviations**

CFR	Code of Federal Regulations
FEMA	Federal Emergency Management Agency
FMA	Flood Mitigation Assistance
HMGP	Hazard Mitigation Grant Program
ICC	Increased Cost of Compliance
NFIP	National Flood Insurance Program
OIG	Office of Inspector General
SRL	Severe Repetitive Loss
U.S.C.	United States Code



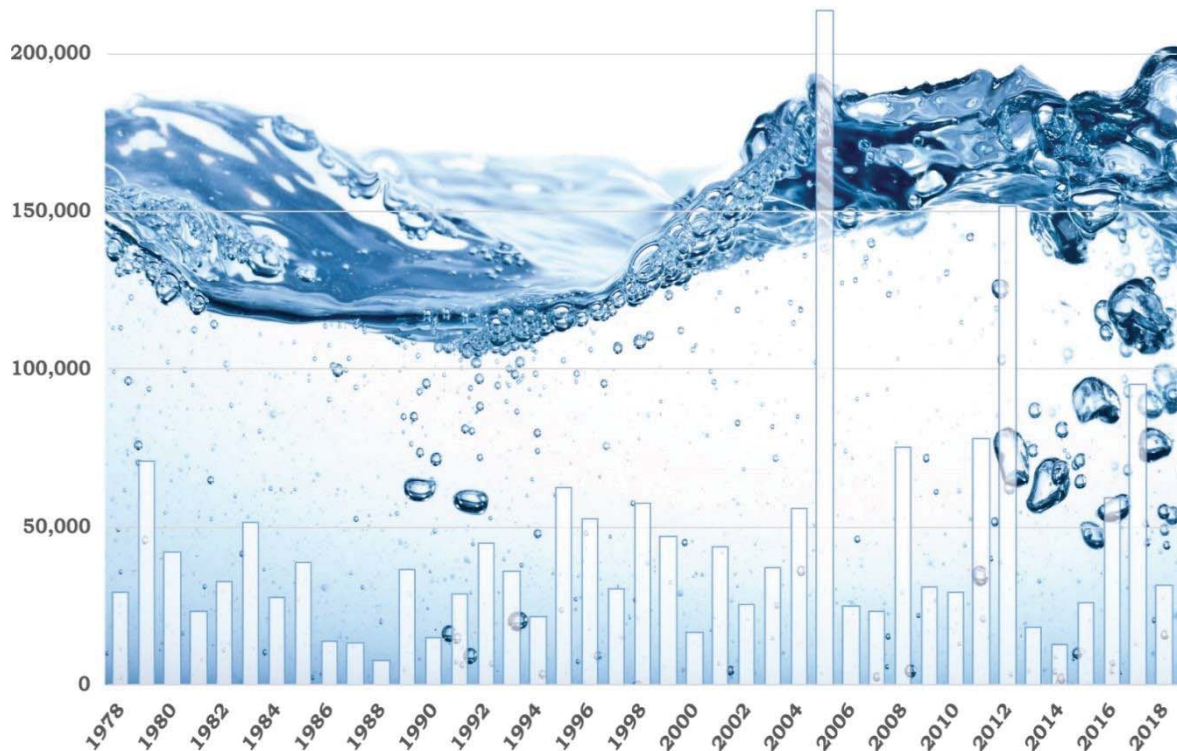
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**Background**

The Federal Emergency Management Agency’s (FEMA) mission is to reduce loss of life and property and protect communities nationwide from all hazards, including natural disasters, acts of terrorism, and other manmade disasters. To help accomplish this mission, FEMA manages the National Flood Insurance Program (NFIP).

NFIP provides flood insurance for property owners to protect against losses resulting from floods occurring in the United States.<sup>1</sup> Property owners may purchase an NFIP flood insurance policy, also known as a Standard Flood Insurance Policy, from a Write Your Own insurance provider or directly from FEMA through a servicing agent (NFIP Direct). From 1978 to 2018, NFIP helped policyholders recover from 1.8 million flood losses, resulting in \$66.5 billion in NFIP claims. Figure 1 shows the number of losses NFIP paid from 1978 through 2018.

**Figure 1. Number of NFIP Losses Paid by Year, 1978–2018**



Source: Office of Inspector General (OIG) analysis of FEMA NFIP losses

<sup>1</sup> The United States comprises the 50 states, District of Columbia, territories and possessions, Commonwealth of Puerto Rico, and Trust Territory of the Pacific Islands.



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Since 1968,<sup>2</sup> Congress has enacted several laws to strengthen NFIP and otherwise help policyholders reduce their risks of flooding. In the *Flood Insurance Reform Act of 2004*, Congress identified a subset of residential properties subject to severe repetitive losses and established the Severe Repetitive Loss (SRL) pilot program to address them. The goal of this 5-year pilot program was for FEMA to provide funding to reduce or eliminate the long-term risk of flood damage and associated claims under NFIP. By funding mitigation activities, the SRL pilot program sought to achieve maximum claims savings in the shortest time.

Central to the SRL pilot program was creation of an SRL list identifying which residential properties, having satisfied the SRL definition, were eligible for prioritized mitigation funding. The *Flood Insurance Reform Act of 2004* defines an SRL property as an NFIP-insured or previously insured property that has met at least one of the following paid flood loss criteria since 1978:

- a) four or more NFIP claims payments (including building and contents) exceeding \$5,000 each, in which the cumulative amount of such claims payments exceeds \$20,000; or
- b) at least two separate claims payments (building payments only), in which the cumulative amount of the building portions of such claims exceeds the market value of the building.

For both (a) and (b), at least two of the referenced claims must have occurred within a 10-year period and must be greater than 10 days apart.<sup>3,4</sup> As of March 31, 2019, the SRL list had 37,786 properties identified as meeting the SRL definition. According to the list, 27,415 (73 percent) properties had not yet completed mitigation activities and were at an elevated risk of future flooding. Figure 2 shows the distribution of the SRL properties throughout the United States, as of March 31, 2019.

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<sup>2</sup> NFIP was established with the passage of the *National Flood Insurance Act of 1968*. The *Reorganization Plan No. 3 of 1978* established FEMA and included transferring NFIP responsibility to FEMA. The reorganization plan became effective on April 1, 1979.

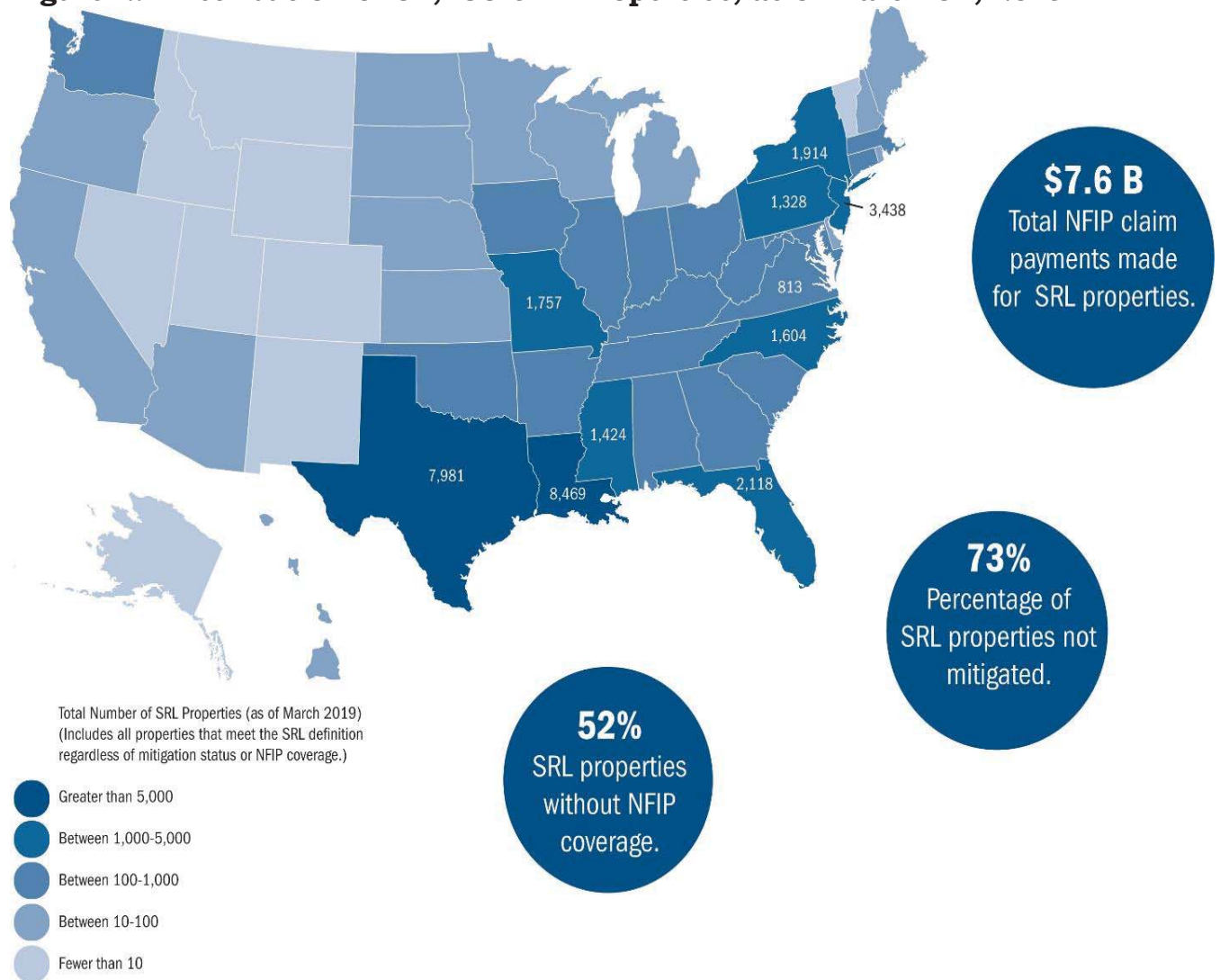
<sup>3</sup> This definition only applies to single-family properties. See also *NFIP Flood Insurance Manual*, as updated.

<sup>4</sup> FEMA uses a modified version of the SRL definition for Flood Mitigation Assistance grant program (FMA) purposes. Specifically, the FMA SRL definition does not include limits on the time between qualifying claims.



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**Figure 2. Distribution of 37,786 SRL Properties, as of March 31, 2019**



Source: OIG analysis of FEMA’s March 31, 2019 SRL list

Note: As discussed in this report, we found the SRL information to be unreliable. Therefore, this graphic is included for illustrative purposes only.





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Since Congress' creation of NFIP in 1968, flood risks have continued and the costs and consequences of flooding have increased dramatically. In an effort to make NFIP more sustainable and financially sound, Congress passed the *Biggert-Waters Flood Insurance Reform Act of 2012* (Biggert-Waters). As part of Biggert-Waters, the SRL Pilot Program and FEMA's Repetitive Flood Claims Grant Program<sup>5</sup> were consolidated and related funding and activities were directed to the Flood Mitigation Assistance grant program (FMA).

For decades, FMA has provided funding to states, territories, federally recognized tribes, and local communities for projects and planning that reduce or eliminate the long-term risk of flood damage to NFIP-insured structures. Congress appropriates funding for FMA annually. Because of Biggert-Waters, FMA became the primary assistance available to mitigate repetitive loss<sup>6</sup> and SRL properties. FEMA uses the SRL list as its primary source of eligibility information to guide distribution of funds under FMA. FMA provides grants to NFIP-insured property owners to:

- acquire or relocate at-risk structures and convert acquired land to open space;
- elevate existing structures; and
- dry flood-proof<sup>7</sup> historic properties.

From 2013 through 2019, following the enactment of Biggert-Waters, \$1.09 billion has been available in FMA grants. Because demand for FMA grants has exceeded available funds, FEMA funds only those projects with the potential to maximize the greatest savings to NFIP. Figure 3 shows the amount of FMA applications and funds available since Biggert-Waters was enacted.

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<sup>5</sup> The Repetitive Flood Claims Program was authorized by the *Flood Insurance Reform Act of 2004*, with the goal of reducing flood damages to individual properties for which one or more claim payments for losses have been made under flood insurance coverage, resulting in the greatest savings to the National Flood Insurance Fund in the shortest time.

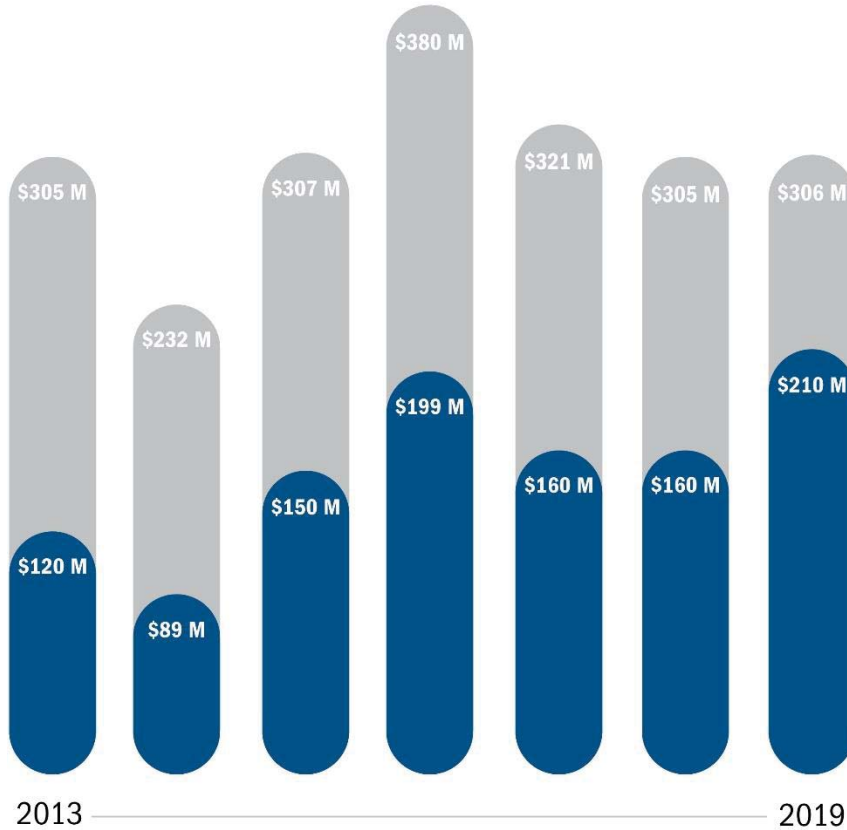
<sup>6</sup> A repetitive loss property is an NFIP-insured structure that has incurred flood-related damage on two occasions, in which the cost of the repair, on average, equaled or exceeded 25 percent of the structure's market value at the time of each flood event, and at the time of the second flood, the property had Increased Cost of Compliance coverage.

<sup>7</sup> Dry flood-proofing refers to techniques applied to keep structures dry by sealing them to keep out floodwaters.



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**Figure 3. FMA Applications and Available Funding since Enactment of Biggert-Waters**



**Total FMA Applications \$2.16 Billion**

**Total FMA Funding Available \$1.09 Billion**

Source: OIG analysis of FEMA's FMA grant data



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### Results of Audit

FEMA is not adequately managing SRL properties covered by NFIP. FEMA has not established an effective program to reduce or eliminate damage to SRL properties and disruption to life caused by the repeated flooding.

First, FEMA does not have reliable, accurate information about SRL properties. This deficiency occurred because of ambiguous FEMA forms to request removal of SRL designation, poor organizational structure, and unassigned roles for ensuring data integrity. As a result, FEMA is using inaccurate information to make funding-related decisions, including requesting appropriations from Congress, deciding where to implement large-scale mitigation projects, and determining which residential mitigation projects to fund through FMA. Additionally, not all NFIP policyholders who have mitigated their SRL property have benefited from reduced policy premiums.

Second, FMA, which aims to mitigate flood damage for NFIP policyholders, provides neither equitable nor timely relief for SRL applicants. We attribute this inefficiency to decentralized FMA grant application requirements and inadequate enforcement of grant requirements. FEMA could strengthen its approach to mitigating SRL properties by promoting the use of Increased Cost of Compliance (ICC) coverage, which is included in NFIP flood policies to assist with mitigation, and could make mitigation relief funding more timely and equitable.

### **FEMA Does Not Have Reliable, Accurate Information on SRL Properties**

When an NFIP policyholder files a flood claim, FEMA determines whether the NFIP-insured residential property qualifies for placement on the SRL list. For inclusion on the SRL list, the property must have had either four or more claims of \$5,000 each, or at least two claims exceeding the market value of the building. At least two of the referenced claims must have occurred within a 10-year period. Once FEMA places a property on the SRL list, FEMA transfers the policyholder's flood insurance policy from the policyholder's insurance provider to FEMA's Special Direct Facility, operated by NFIP Direct,<sup>8</sup> upon policy renewal. NFIP representatives monitor all Special Direct Facility policies for targeted mitigation actions.

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<sup>8</sup> NFIP Direct is a FEMA program that assists in issuing flood insurance policies under NFIP in communities designated by FEMA and delivers policies and payment of claims for losses, as prescribed by and at the discretion of FEMA.

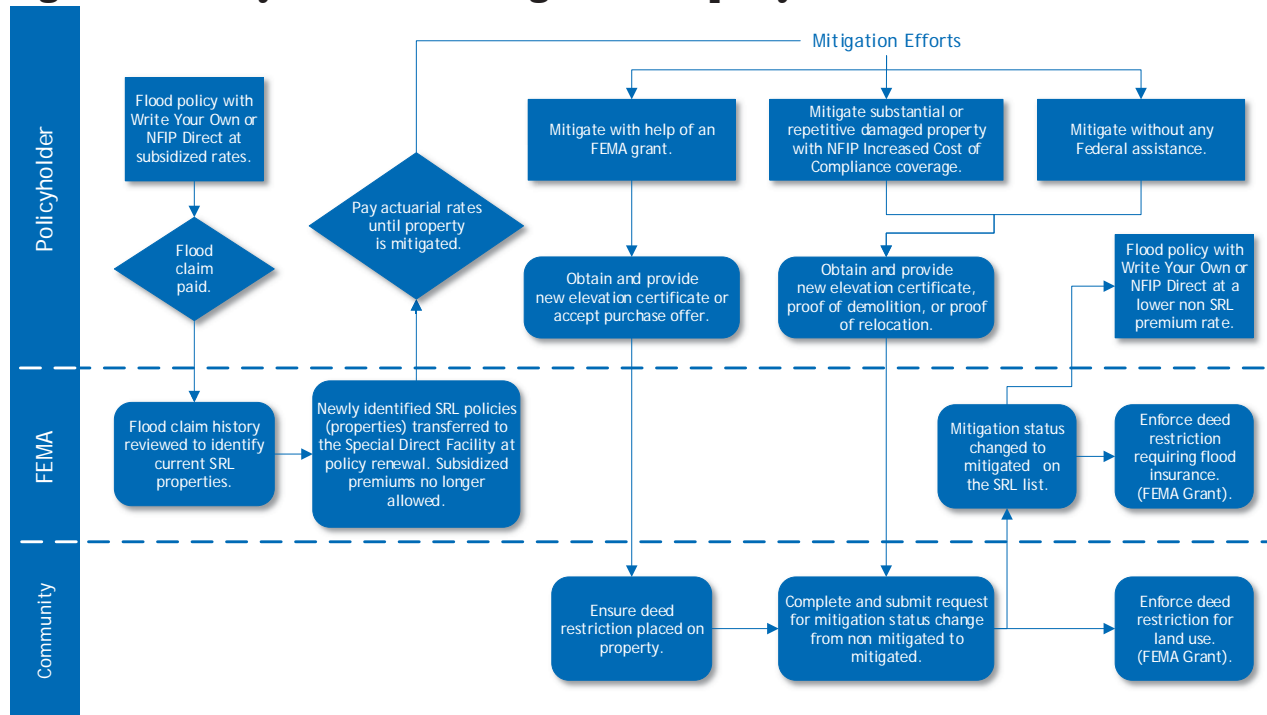


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If a property on the SRL list is mitigated, either with Federal assistance<sup>9</sup> or property owner funding, the property remains on the list, but is reported as mitigated. Therefore, the SRL list includes both non-mitigated and mitigated SRL properties. FEMA uses information from the SRL list to make funding-related decisions, including requesting appropriations from Congress, deciding where to implement large-scale mitigation projects, such as those under the Hazard Mitigation Grant Program (HMGP),<sup>10</sup> and determining which residential mitigation projects to fund through FMA.

Figure 4 shows the lifecycle of an SRL property on the SRL list.

**Figure 4. Lifecycle of SRL-Designated Property**



Source: OIG analysis of NFIP guidance

As of March 31, 2019, FEMA’s SRL list comprised 37,786 properties, of which 27,415 (73 percent) were reportedly not mitigated and 10,371 (27 percent) were reportedly mitigated. Figure 5 illustrates the distribution of non-mitigated and

<sup>9</sup> In addition to FEMA’s FMA, other Federal agencies have programs aimed at helping homeowners mitigate their flood-prone properties. These include the Road Home Program administered by the U.S. Department of Housing and Urban Development.

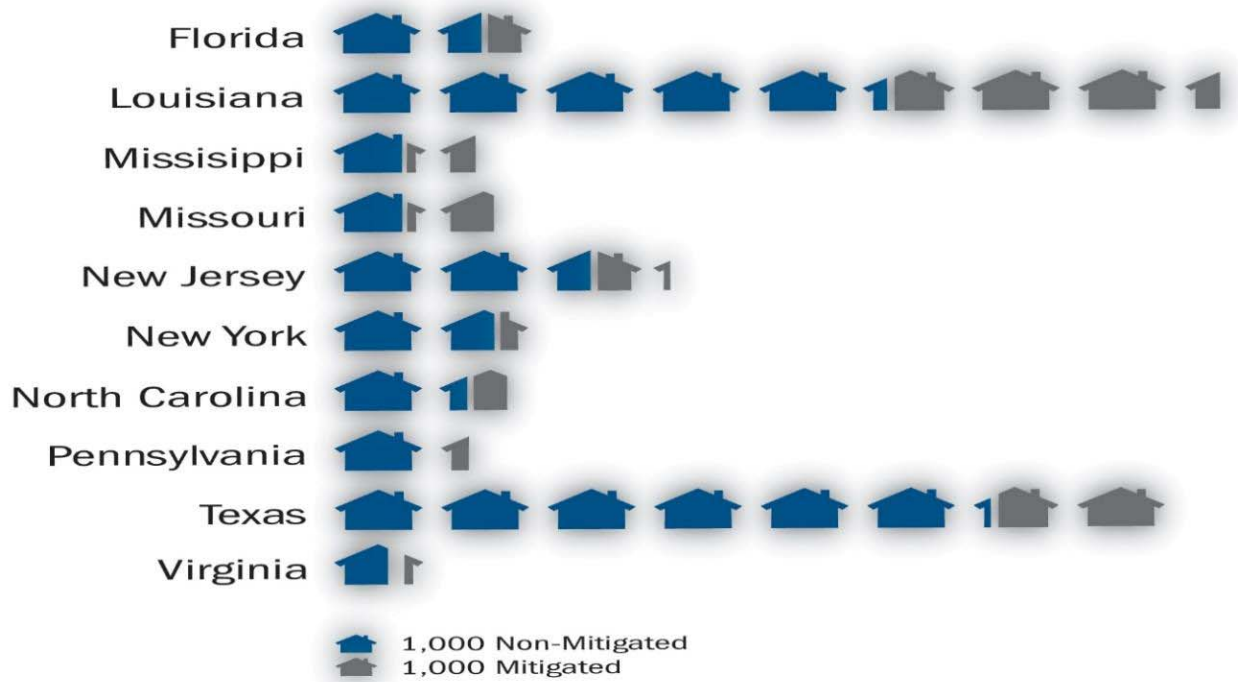
<sup>10</sup> Following a Presidential Major Disaster Declaration, HMGP helps communities implement hazard mitigation measures requested by governors or tribal executives in states, territories, and tribal areas. HMGP’s key purpose is to fund mitigation measures that reduce the risk of loss of life and property from future disasters.



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mitigated SRL properties in the 10 states with the largest number of SRL properties.

**Figure 5. Non-mitigated and Mitigated Properties on SRL List, as of March 31, 2019**



Source: OIG analysis of SRL list as of March 31, 2019

To verify the accuracy of the SRL list, we visited 837 properties in 4 of FEMA’s 10 regions. We determined the list contained incorrect information. Specifically, 140 (17 percent) of the 837 properties had been mitigated, but were incorrectly classified as non-mitigated on the March 31, 2019 SRL list. Of these, 29 were vacant lots and 111 were elevated structures. In one example, FEMA had acquired and demolished an SRL property in 1993 to protect it from future flood losses, but it remained classified as non-mitigated on the SRL list. During our site visit to the property address, we confirmed the SRL property had been demolished and the previous location of the property was partially covered by the Atlantic Ocean. Figure 6 shows both a ground and aerial view of the previous location of the property.



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**Figure 6. FEMA Acquired and Demolished SRL Property**



Ground level view of FEMA acquired and demolished SRL Property (see blue line)  
Source: OIG photo



Aerial View of FEMA acquired and demolished SRL Property (see blue outline)  
Source: MassGIS (Bureau of Geographic Information)

Properties that have been mitigated but remain designated as non-mitigated on the SRL list can have significant financial implications for property owners. Specifically, once a property is placed on the SRL list, Biggert-Waters requires its annual NFIP premium be increased 25 percent until the premium matches the property's true flood risk. The 25 percent penalty rate is designed to persuade SRL property owners to mitigate against future flooding. Once a property is deemed mitigated, policyholders can choose their own flood insurance provider and qualify for lower premiums.

Because a property's mitigation status directly affects its insurance premium, we also reviewed 73 SRL properties that were elevated using FMA grant funding to determine whether their premiums properly reflected mitigation. Our sample included 59 correctly classified mitigated and 14 incorrectly classified non-mitigated SRL properties as of March 31, 2019. We determined that, despite 59 FMA-funded properties having the correct mitigation status on the SRL list, 17 (29 percent) did not properly receive reductions to their insurance premiums. For example, one policyholder completed elevation 10 months after the NFIP policy renewal of \$1,000.<sup>11</sup> This policyholder did not benefit from reduced premiums until the next policy renewal 2 months later. If the elevation certificate had been properly recorded, this policyholder's premiums would have been reduced by \$160 in the first year of mitigation. In another example, one policyholder incurred increasing premiums for 4 years after elevating, resulting in an overpayment of \$5,600 in premiums. Additionally, we

<sup>11</sup> Dollar amounts in all examples in this report are approximate.



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determined that, for 10 (71 percent) of the 14 incorrectly classified properties, the policyholders' insurance premiums did properly reflect mitigation even though the March 31, 2019 SRL list shows these properties as non-mitigated.

Issues with the form used to request removal of the SRL designation may explain why some properties that had been mitigated continued to appear on the list as non-mitigated. As previously shown in Figure 4, before a property can be designated on the SRL list as mitigated and, therefore, eligible for reduced insurance premiums, a community official must submit a completed *NFIP Repetitive Loss Update Worksheet* (Form AW-501). FEMA officials confirmed submission of the Form AW-501 was the only way to update a property's mitigation status on the SRL list.

However, we found Form AW-501 and its instructions ambiguous and, therefore, unhelpful. For instance, neither the form nor the instructions make clear that the form's main purpose is to facilitate the removal of a property's SRL designation. During our visits to 16 communities, we identified a general lack of awareness and broad confusion among community and state officials about the significance of Form AW-501.

FEMA's data indicated that, from fiscal year 2014 through FY 2017, FEMA changed the mitigation status of 1,001 SRL properties, 54 percent of which are in Louisiana. However, FEMA was unable to provide evidence that clearly identified how many Form AW-501s had been received and processed during this same period

We further attribute unreliability of the SRL list and associated problems to the absence of SRL-specific roles and responsibilities within FEMA. During our audit, we identified three FEMA divisions that rely on the SRL list to render funding decisions on activities such as requesting appropriations from Congress and implementing and funding large-scale and residential mitigation projects. Although FEMA distributes billions of dollars based on information from the SRL list, FEMA could not identify any specific official or division directly responsible for ensuring the integrity of the SRL list.

As a result, FEMA is using inaccurate information to make FMA funding decisions. Additionally, not all NFIP policyholders who have mitigated their SRL property have benefited from reduced policy premiums or been afforded the opportunity to choose their own insurance provider.



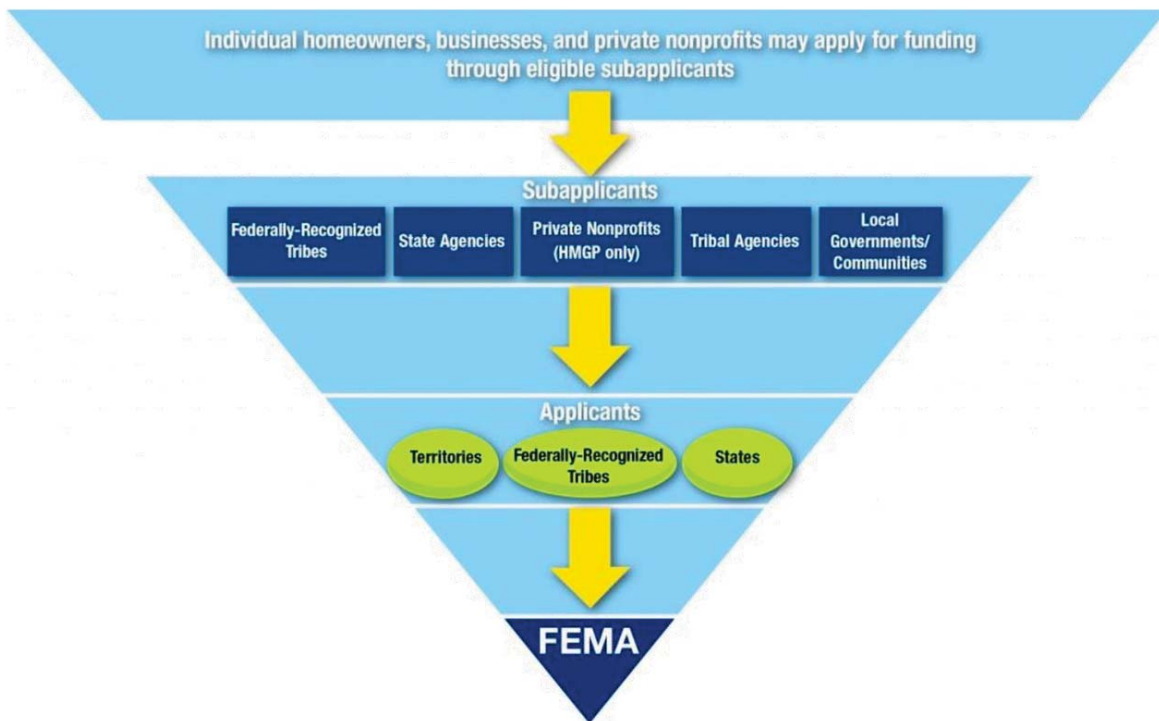
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**FEMA Could Improve the FMA Grant Program to Make Participation More Equitable and Timely**

For decades, FMA has provided funding to states, territories, federally recognized tribes, and local communities for projects and planning that reduce or eliminate long-term risk of flood damage to structures insured under NFIP. FMA also provides homeowners with the opportunity to obtain assistance for up to 100 percent of the cost of mitigation.

According to FEMA’s FMA application process outlined in Figure 7, individual homeowners cannot apply to FEMA directly, but must work in conjunction with sub-applicants and applicants to apply for FMA funding. Additionally, FMA funds are only available to NFIP-insured homeowners. FEMA announces the availability of FMA funding through a Notice of Funding Opportunity.

**Figure 7. FEMA’s Application Process for FMA Funding**



Source: FEMA

FEMA could improve FMA by making participation in the program more equitable and timely. Our audit revealed that FMA recipients depend on the willingness of state and local officials to participate in the FMA program, may





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be subject to upfront or out of pocket costs, and must wait years for mitigation to be completed. Additionally, FEMA does not distinguish or prioritize relief for primary versus secondary residences and allows FMA recipients to avoid maintaining proper flood insurance. We attribute these inconsistent practices, requirements, and results to FEMA regions, states, and communities having their own specific FMA grant application requirements as well as FEMA not having a formalized process to enforce grant requirements. As a result, FEMA may not be accomplishing FMA's goal to reduce or eliminate claims under NFIP.

In the current process, NFIP policyholders depend on the willingness of state and local officials to participate in FMA. Without the participation of these state and local officials, policyholders are unable to apply for FMA funding for mitigation. Eight eligible applicants (District of Columbia, Hawaii, Maine, Minnesota, Mississippi,<sup>12</sup> New Mexico, South Dakota, and the U.S. Virgin Islands) did not apply for FMA funding during the FY 2013 through FY 2018 grant cycles. For this reason, 1,608 SRL policyholders also were unable to apply for FMA funding.<sup>13</sup>

Another disincentive to policyholders' participation in FMA is the imposition of upfront and out-of-pocket costs. For example, one community required homeowners to pay a \$250 grant application fee as well as a \$5,000 retainer to leverage awarded funds. A different community made homeowners pay the initial costs to begin elevation of their properties, including the first progress payment to the elevation contractor. In yet another setting, homeowners incurred upfront expenses for engineering plans and elevation certificates necessary to satisfy FEMA regional requirements. Despite the assurance of future reimbursement from FEMA, officials said these upfront and out-of-pocket costs created an insurmountable barrier for homeowners seeking mitigation assistance through FMA.

Officials also said that lengthy waiting periods for funding prompts many policyholders to avoid or abandon participation in FMA. Even if a policyholder is able to apply for and receive FMA funding, the time between FEMA's issuance of the Notice of Funding Opportunity and mitigation of their property can take several years. Our sample included 120 homeowners who received FMA funds and completed mitigation activities that took, on average, 2.7 years. Of these homeowners, 25 (23 percent) sustained intervening, pre-mitigation flood damage, for which FEMA reimbursed them \$4.7 million. Extended delays

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<sup>12</sup> Mississippi is one of the top 10 SRL states depicted in Figure 5.

<sup>13</sup> This figure is based on the SRL list dated March 31, 2019.



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in mitigation procedures can exacerbate property damage and disruption to homeowners' lives.

FEMA also does not distinguish or prioritize relief for primary versus secondary residences and allows FMA recipients to avoid maintaining proper flood insurance. Among our sample of 211 FMA property owners approved for FMA funding, we found 53 (25 percent) who were categorized as other than primary residences (e.g., secondary or income properties). We identified homeowners displaced from their primary residences pending mitigation; yet others, who were not displaced, received grants to repair secondary or income properties. Even though both homeowner groups are equally eligible for FMA funding, not prioritizing relief for those displaced is inconsistent with the primary objective of the SRL properties strategy, "to eliminate or reduce the damage to property and the disruption to life caused by repeated flooding."<sup>14</sup> Additionally, 10 FMA recipients in our sample have avoided paying flood insurance, contrary to the conditions for receiving FMA funding.<sup>15</sup> In one instance, a property owner used FMA funding to mitigate a property that had not had an NFIP policy since 2007 and was not the policyholder's primary residence. FEMA's failure to enforce its flood insurance requirement has led to FMA recipients discontinuing their participation in NFIP, as well as FMA continuing to rely on borrowing from taxpayer funds to cover NFIP flood claims.<sup>16</sup>

In addition to improving FMA, FEMA could strengthen its approach for mitigating SRL properties by promoting communities' use of the ICC "repetitive loss" provision available under NFIP. ICC coverage of up to \$30,000,<sup>17</sup> which is included in NFIP flood policies, may be available to help policyholders pay to elevate, demolish, relocate, or flood-proof non-residential structures, according to local codes and floodplain ordinances. A policyholder may be eligible to file a claim for ICC coverage in two instances:

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<sup>14</sup> *NFIP Flood Insurance Manual*, as updated.

<sup>15</sup> FEMA requires FMA recipients to have insurance at the time of application for a grant. Additionally, flood insurance must be maintained for the life of the structure.

<sup>16</sup> NFIP's primary source of revenue comes from premiums collected to insure policyholders' property. These resources are inflows to the Government and are not the result of intragovernmental flows. When claims exceed revenue, FEMA has borrowing authority that can be accessed to satisfy outstanding claims. In FY 2018, the *Additional Supplemental Appropriations for Disaster Relief Requirements Act* (P.L. 115-72) canceled \$16 billion of NFIP's debt to Treasury. As of September 30, 2019, FEMA owes Treasury \$20.5 billion to cover claims and related expenses.

<sup>17</sup> ICC coverage is in addition to coverage for the repair of the building's actual physical damage caused by flooding. ICC coverage, first available in 1997, was initially limited to \$15,000. ICC coverage increased to \$20,000 in 2000 and \$30,000 in 2003.



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1. When a community determines that a building is “substantially damaged” and the cost to repair or improve the structure exceeds its market value by a threshold amount adopted by law or ordinance. Community building officials are responsible for issuing substantial damage declarations.
2. When a community has a repetitive loss provision in its floodplain management ordinance and determines that a building was damaged by a flood two times in the past 10 years, where the cost of repairing the flood damage, on average, equaled or exceeded 25 percent of its market value at the time of each flood.

Currently, many policyholders cannot make an ICC claim because their communities have not adopted the repetitive loss provision in their floodplain management laws or ordinances. Although ICC funding may not cover the full cost of mitigation, making it available for repetitive loss properties could give policyholders more equitable and timely relief not currently available through FMA. As of March 31, 2019, approximately 2,800 non-mitigated single-family properties<sup>18</sup> on the SRL list had experienced two or more losses within 10 years totaling more than 50 percent of the value of their homes.

In our sample of 16 communities, 10 had not adopted a repetitive loss provision in their flood plain management laws or ordinances. If these communities had the repetitive loss provision, an estimated 600 (17 percent) of the 3,557 non-mitigated single family properties listed on the March 31, 2019 SRL list may have qualified for ICC coverage because they met the ICC repetitive loss definition. In one instance, we visited a home valued at \$543,000 that had sustained four flood losses, resulting in NFIP claim payments totaling \$1,243,000 (\$943,000 for the building and \$300,000 for the contents). Despite these repetitive losses, the property had not been declared substantially damaged after any flood. Some losses might have been avoided if ICC funding had been available to promote mitigation.

Congress has identified a need for ICC reform. Proposed legislation would increase ICC coverage up to \$100,000 and expand eligible mitigation activities.<sup>19</sup>

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<sup>18</sup> Market values were not available for these properties. As an estimate, we used the building’s value at the time of the most recent loss.

<sup>19</sup> Proposed legislation includes the *21st Century Flood Reform Act* (H.R. 2874), *Flood Insurance Affordability and Sustainability Act of 2017* (S. 1313), and the *Sustainable, Affordable, Fair, and Efficient (SAFE) National Flood Insurance Program Reauthorization Act of 2017* (S. 1368).



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### Recommendations

**Recommendation 1:** We recommend the Administrator for the Federal Emergency Management Agency devise a plan to strengthen its management of SRL properties and ensure the accuracy of the SRL list. The plan should:

- assign specific roles and responsibilities to ensure cross-division integration, implementation, and monitoring of FEMA's SRL strategy;
- improve its workflow tracking system to monitor all requested changes to the SRL list and capture resulting outcomes; and
- evaluate alternatives for updating the SRL list apart from Form AW-501, such as permitting updates to a property's mitigation status based on submission of a proper elevation certificate.

**Recommendation 2:** We recommend the Administrator for the Federal Emergency Management Agency revise FEMA's approach to ensure equitable and timely distribution of mitigation funding. At a minimum, FEMA should:

- devise a plan and conduct outreach to communities with a large number of SRL properties to identify and address barriers to their participation in the Flood Mitigation Assistance (FMA) grant program;
- update regional, state, and community training to address inconsistent practices and requirements that hinder NFIP-insured participation in the FMA grant program; and
- develop and implement policies and procedures to monitor and enforce grant requirements.

**Recommendation 3:** We recommend the Administrator for the Federal Emergency Management Agency strengthen its approach for mitigating SRL properties by promoting communities' use of the Increased Cost of Compliance repetitive loss provision available under NFIP.



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### Management Comments and OIG Analysis

FEMA concurred with all three of our recommendations. A copy of FEMA's response in its entirety is included in appendix B. FEMA also provided technical comments and suggested revisions to our report in a separate document. We reviewed the technical comments and made changes to the report where appropriate. A summary of FEMA's response and our analysis follows.

**FEMA's Comments to Recommendation 1:** Concur. FEMA will devise a plan to assign specific roles and responsibilities, improve workflow tracking, and evaluate alternatives for updating the SRL strategy. Estimated Completion Date: December 31, 2021.

**OIG Analysis of FEMA's Comments:** FEMA's planned corrective action is responsive to the recommendation. The recommendation will remain open and resolved until we have reviewed FEMA's plan to strengthen its management of SRL properties and ensure the accuracy of the SRL list.

**FEMA's Comments to Recommendation 2:** Concur. FEMA will develop a plan and conduct outreach to communities identified as having high numbers of SRL properties, according to the FMA definition of SRL. During this outreach, FEMA will identify barriers to participation, as well as potential solutions, such as project scoping funding, technical assistance, and other capability building methods to enhance these communities' participation. Further, FEMA will initiate scoping efforts by the end of 2020 and develop an engagement plan by the end of 2021.

Officials said FEMA already administers a robust training and outreach program to ensure all FEMA regional staff understand grant application requirements and expectations and to maintain program consistency nationwide. However, OIG's draft report and FEMA's discussions with OIG auditors brought to light inconsistencies pertaining to documentation on feasibility and effectiveness of project eligibility review. In particular, we identified inconsistencies in requiring final stamped engineering and design documents, which are a major cost for sub-applicants who are not guaranteed funding. To address these inconsistencies, FEMA will take the following corrective actions:

1. Evaluate observations in OIG's draft report and develop training and outreach to address inconsistencies noted during both FEMA Region Notice of Funding Opportunity webinars in summer/fall 2020.



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2. Clarify feasibility documentation requirements and verify distribution of corrective messaging to state hazard mitigation and floodplain management offices by fall 2020.
3. Update Business Rules materials and webinars with report findings and highlight these materials for regional review staff, prior to the Eligibility and Completeness Review in February 2021.
4. Collect and evaluate information about projects that regions marked ineligible during Eligibility and Completeness Review in the FY 2020 FMA review process.

FEMA has developed and implemented several policies and procedures to monitor and enforce grant requirements, according to the Code of Federal Regulations (CFR).<sup>20</sup> To monitor and enforce NFIP requirements, FEMA will not fund future mitigation projects where applicants have failed to obtain and maintain flood insurance, as this requirement is part of FEMA's national closeout checklist. Although FEMA is not authorized to monitor and enforce this requirement after grant closeout, consistent with the United States Code (U.S.C.),<sup>21</sup> it requires placing deed restrictions on structures to notify future property owners, lenders, or other interested parties about the requirement to maintain flood insurance. However, although it has authority to enforce the terms of Federal grants, after grant closeout (except for acquisitions under 44 CFR Part 80), FEMA said its options to enforce maintenance of flood insurance are limited. FEMA cannot recoup funds because:

- it would undermine the purpose of the grant (to assist with mitigation);
- the funds were properly spent, as verified during grant closeout; and
- the recoupment process would be unwieldy.

According to FEMA, tracking owners when property changes hands and regularly checking on homeowners' compliance for all FEMA projects, property by property, would be extremely challenging. FEMA also has no enforcement mechanism or authority to compel homeowners to comply.

The deed restriction FEMA requires for mitigated properties also ensures any future purchasers, including lenders, are notified of the requirement to purchase flood insurance. Noncompliance may result in denial of federally-backed mortgages and ineligibility for other Federal aid.

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<sup>20</sup> 2 CFR Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*; and 44 CFR Subchapter B, *Insurance and Hazard Mitigation*  
<sup>21</sup> 42 U.S.C. 4012a, *Flood Insurance Purchase and Compliance Requirements and Escrow Accounts*



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For its outreach to communities with high numbers of SRL properties and update training to address inconsistencies, FEMA gave an Estimated Completion Date of December 31, 2021.

**OIG Analysis of FEMA’s Comments:** FEMA’s planned corrective actions are partially responsive to the recommendation. Specifically, FEMA said it would:

- devise a plan and conduct outreach to communities with a large number of SRL properties to identify and address barriers to their participation in FMA; and
- update training to FEMA region, state, and community staff to address inconsistent practices and requirements that hinder NFIP-insured participation in the FMA grant program.

However, FEMA’s corrective actions do not include developing and implementing policies and procedures to monitor and enforce grant requirements. We acknowledge FEMA’s existing mechanisms to monitor grant requirements, but despite these mechanisms, 10 FMA recipients in our sample did not maintain flood insurance before, during, or after grant closeout. Upon being selected to receive federally-funded hazard mitigation assistance, every property owner in a Special Flood Hazard Area<sup>22</sup> is expected to sign a “Model Acknowledgement of Conditions for Mitigation of Property in a Special Flood Hazard Area With FEMA Grant Funds.” Upon signing this acknowledgement, the property owner agrees:

That the Property Owner has insured all structures that will not be demolished or relocated out of the Special Flood Hazard Area for the above-mentioned property to an amount at least equal to the project cost or to the maximum limit of coverage made available with respect to the particular property, whichever is less, through the National Flood Insurance Program (NFIP), as authorized by 42 U.S.C. §4001 et seq., as long as the Property Owner holds title to the property as required by 42 U.S.C. §4012a...

The above conditions are binding for the life of the property...

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<sup>22</sup> Flood hazard areas identified on the Flood Insurance Rate Map are classified as a Special Flood Hazard Area. Special Flood Hazard Area are defined as the area that will be inundated by the flood event having a 1-percent chance of being equaled or exceeded in any given year. The 1-percent annual chance flood is also referred to as the base flood or 100-year flood.



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Failure to abide by the above conditions may prohibit the Property Owner and/or any subsequent purchasers from receiving Federal disaster assistance with respect to this property in the event of any future flood disasters. If the above conditions are not met, FEMA may recoup the amount of the grant award with respect to the subject property, and the Property Owner may be liable to repay such amounts.

Aspects of this acknowledgement are placed as deed restrictions on the property. Specifically, the flood insurance coverage on the property must be maintained during the life of the property, regardless of transfer of ownership of such property. We agree that full recoupment of the funds may undermine the purpose of the grant. However, recoupment of flood insurance premiums due is enforceable, as agreed to in the acknowledgement and deed restriction. This recommendation will remain open and unresolved until FEMA provides us corrective actions plans to develop and implement policies and procedures to monitor and enforce grant requirements.

**FEMA's Comments to Recommendation 3:** Concur. FEMA will strengthen its approach to mitigating SRL properties by promoting communities' use of the ICC repetitive loss provision available under NFIP. Estimated Completion Date: December 31, 2021.

**OIG Analysis of FEMA's Comments:** FEMA's planned corrective action is responsive to the recommendation. The recommendation will remain open and resolved until we have reviewed FEMA's outreach material promoting communities' use of the ICC repetitive loss provision.





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### Appendix A

#### Objective, Scope, and Methodology

The Department of Homeland Security Office of Inspector General was established by the *Homeland Security Act of 2002* (Public Law 107-296) by amendment to the *Inspector General Act of 1978*.

The objective of this audit was to determine to what extent FEMA is managing SRL properties covered by NFIP.

To understand FEMA's oversight role for the program, we obtained and reviewed relevant authorities, policies, and procedures including:

- *Flood Insurance Reform Act of 2004*;
- *Biggert-Waters Flood Insurance Reform Act of 2012*;
- *FEMA SRL Pilot Program Guidance*;
- *FEMA Hazard Mitigation Assistance Guidance*;
- *NFIP Flood Insurance Manual*;
- *NFIP: Community Rating System Coordinator's Manual*; and
- *NFIP: Increased Cost of Compliance Coverage*.

We also interviewed officials from FEMA's Federal Insurance and Mitigation Administration and Regional Offices to identify staff directly responsible for the management, oversight, and execution of the SRL program at FEMA, NFIP contractors, and selected states and localities.

We judgmentally selected 16 NFIP communities that had SRL properties as of March 31, 2018, and received FMA funding from FY 2013 through 2016. Within these communities, we visited 884 properties (837 SRL and 47 non-SRL). We examined the 837 SRL properties to determine whether their mitigation status on the March 31, 2019 SRL list was correct. We determined the SRL list was not sufficiently reliable because it did not always reflect the correct mitigation status of the SRL properties.

Additionally, we examined 211 FMA properties (164 SRL and 47 non-SRL) to assess the effectiveness of FEMA's FMA grant program. We determined whether these properties complied with the conditions for receiving FMA funding, including maintaining flood insurance in perpetuity. We also calculated the time it took a homeowner who had received FMA funding to apply for and complete mitigation. The following table identifies NFIP communities we visited.



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**NFIP Communities Visited**

FEMA Region	State	NFIP Community	Number of Properties Observed			Total
			SRL (Only)	SRL w/FMA	FMA (Only)	
I	Massachusetts	Town of Marshfield	10	1	-	11
		Town of Scituate	52	8	-	60
III	Pennsylvania	West Whiteland Township	1	3	-	4
		Yardley Borough	26	11	-	37
IV	Florida	Santa Rosa County	55	3	3	61
		Pensacola Beach-Santa Rosa Island Authority	131	12	1	144
		Escambia County	23	1	7	31
	North Carolina	Beaufort County	27	4	-	31
		Craven County	9	9	4	22
		Town of Carolina Beach	26	7	3	36
VI	Louisiana	City of New Orleans	106	8	-	114
		Jefferson Parish	59	42	4	105
		St. Tammany Parish	43	15	1	59
	Texas	Galveston County	35	5	1	41
		City of Nassau Bay	19	7	20	46
		City of Houston	51	28	3	82
<b>Total</b>			<u>673</u>	<u>164</u>	<u>47</u>	<u>884</u>

Source: OIG analysis of March 31, 2018, and FMA

In addition to visiting 884 properties, we conducted in-person and telephonic interviews with FEMA regional and state personnel responsible for overseeing mitigation activities in the 16 SRL communities. We also interviewed community officials to gain an understanding of their SRL mitigation efforts.

We conducted this performance audit between August 2018 and December 2019 pursuant to the *Inspector General Act of 1978*, as amended, and according to generally accepted government auditing standards. Those standards require we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based upon our audit objectives. We believe the evidence obtained provides a reasonable basis for our findings and conclusions based upon our audit objectives.



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**Appendix B**  
**FEMA Comments to the Draft Report**

U.S. Department of Homeland Security  
Washington, DC 20528



**FEMA**

July 29, 2020

MEMORANDUM FOR: Joseph V. Cuffari, Ph.D.  
Inspector General

FROM: Cynthia Spishak  
Associate Administrator  
Office of Policy and Program Analysis

CYNTHIA  
SPISHAK

Digitally signed by CYNTHIA  
SPISHAK  
Date: 2020.07.29 13:28:30  
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SUBJECT: Management Response to Draft Report: “FEMA Is Not Effectively Administering a Program to Reduce or Eliminate Damage to Severe Repetitive Loss Properties”  
(Project No. 18-036-AUD-FEMA)

Thank you for the opportunity to comment on this draft report. The Federal Emergency Management Agency (FEMA) appreciates the work of the Office of Inspector General (OIG) in planning and conducting its review and issuing this report.

FEMA acknowledges the OIG’s findings regarding FEMA’s Federal Insurance Mitigation Administration’s (FIMA) management of severe repetitive loss (SRL) properties covered by the National Flood Insurance Program (NFIP). FIMA’s work to address the OIG’s recommendations will reduce future flood losses through improved management of SRL properties and the Flood Mitigation Assistance (FMA) program. FIMA already has extensive policies and procedure documents outlining eligibility, implementation, monitoring, and enforcement of grant requirements during the grant lifecycle. FIMA remains committed to aligning and implementing the FMA program in keeping with our core values of integrity, compassion, fairness and respect.

The draft report contained three recommendations, with which FEMA concurs. Attached find our detailed response to each recommendation. FEMA previously submitted technical comments under a separate cover for OIG’s consideration.

Again, thank you for the opportunity to review and comment on this draft report. Please feel free to contact me if you have any questions. We look forward to working with you again in the future.

Attachment



**OFFICE OF INSPECTOR GENERAL**  
Department of Homeland Security

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**Attachment: Management Response to Recommendations  
Contained in 18-036-AUD-FEMA**

OIG recommended that the Acting Administrator for FEMA:

**Recommendation 1:** Devise a plan to strengthen its management of Severe Repetitive Loss properties and ensure the accuracy of the Severe Repetitive Loss list.

- assign specific roles and responsibilities to ensure cross-division integration, implementation, and monitoring of FEMA’s Severe Repetitive Loss strategy;
- improve its workflow tracking system to monitor all requested changes to the Severe Repetitive Loss strategy; and
- evaluate alternatives for updating the Severe Repetitive Loss list apart from Form AW-501, such as permitting updates to a property’s mitigation status based on submission of a proper elevation certificate.

**Response:** Concur. FIMA’s Floodplain Management Division (FPM) will devise a plan to assign specific roles and responsibilities, improve workflow tracking, and evaluate alternatives for updating the SRL strategy. Estimated Completion Date (ECD): December 31, 2021.

**Recommendation 2:** Revise FEMA’s approach to ensure equitable and timely distribution of mitigation funding. At a minimum, FEMA should:

- devise a plan and conduct outreach to communities with a large number of SRL properties to identify and address barriers to their participation in the Flood Mitigation Assistance program;
- update regional, state, and community training to address inconsistent practices and requirements that hinder NFIP-insured participation in the Flood Mitigation Assistance grant program; and
- develop and implement policies and procedures to monitor and enforce grant requirements.

**Response:** Concur. FIMA’s FPM will develop a plan and conduct outreach to communities identified with high numbers of SRL properties; pursuant to the FMA definition of SRL. During this outreach effort, FIMA will identify barriers to participation as well as potential solutions, such as project scoping funding, technical assistance, and other capability building methods to enhance participation of these communities. Further, FIMA’s Mitigation Directorate will initiate scoping efforts by the end of calendar year 2020 and will develop an engagement plan by the end of calendar year 2021.



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The FMA Notice of Funding Opportunity (NOFO) for fiscal year 2022 will include considerations based on the: 1) engagement plan for development of prioritization factors; 2) capability building activities for high saturation SRL communities with little past participation in FMA; and 3) technical assistance for developing high quality flood mitigation projects.

FIMA's Hazard Mitigation Assistance Division (HMA) already administers a robust training and outreach program to ensure all FEMA regional staff understand grant application requirements and expectations in order to maintain program consistency nationwide. This effort includes: 1) annual program webinars; 2) the HMA program's training series (designated E212-E214) at the Emergency Management Institute as well as courses instructed in the field; 3) tailored project review Business Rules (i.e. project specific); and 4) a centralized review and approval process at FEMA Headquarters for FMA grant applications. However, the OIG's draft report, and FIMA's discussions with OIG inspectors, brought to light inconsistencies within specific regions pertaining to the feasibility and effectiveness documentation required for project eligibility review; particularly requiring final stamped engineering and design documents which provides a major cost to sub-applicants who are not guaranteed funding.

To address these inconsistencies, FEMA will administer the following corrective actions:

1. FIMA's Mitigation Directorate will evaluate observations provided in the OIG's draft report and develop training and outreach to address inconsistencies noted during both FEMA Region NOFO webinars in the summer/fall 2020.
2. FIMA's Mitigation Directorate will clarify feasibility documentation requirements and verify that corrective messaging is distributed to state hazard mitigation and floodplain management offices by fall 2020.
3. FIMA-HMA will update the Business Rules materials and webinars with report findings and highlight these materials for regional review staff prior to the Eligibility & Completeness Review (E&C) in February 2021.
4. FIMA Mitigation Directorate will collect information on projects which regions marked ineligible during E&C review during the FY20 FMA review process from winter through spring 2021. These inputs will be evaluated by FIMA's Mitigation Directorate staff for areas where the OIG noted inconsistencies in review and validated for consistency. For example, in cases for which projects are marked ineligible due to feasibility documentation; i.e., engineering drawings, FIMA will: 1) consult with the regional reviewer; 2) review the application documentation in question; and 3) validate the information.

FIMA NFIP also developed and implemented several policies and procedures to monitor and enforce grant requirements. In compliance with the applicable regulations at 2 Code



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of Federal Regulations (C.F.R.) Part 200<sup>1</sup> and Title 44 of the C.F.R.,<sup>2</sup> for example, FIMA already has extensive policies and procedure documents outlining eligibility, implementation, monitoring, and enforcement of grant requirements during the grant lifecycle. In terms of monitoring and enforcing NFIP requirements, FEMA will not fund future mitigation projects where applicants have failed to obtain and maintain flood insurance, as this requirement is part of FEMA's national close-out checklist. Although, FEMA is not authorized by statute or regulation to monitor and enforce this requirement after closeout, consistent with 42 United States Code (U.S.C.) 4012a, "Flood insurance purchase and compliance requirements and escrow accounts," FEMA requires deed restrictions to be placed on structures that provide notice of the flood insurance maintenance requirement for future property owners, lenders, or other interested parties.

Under 42 U.S.C. 4012a, a federal agency cannot approve any financial assistance for acquisition or construction purposes in a Special Flood Hazard Area (SFHA) unless the building is covered by flood insurance. The provision also states the requirement to maintain flood insurance applies during the life of the structure, regardless of transfer. It is under the authority of this provision that FEMA requires the purchase of flood insurance for a mitigated property in a SFHA when the project is completed and at the time of the closeout. Consequently, FEMA requires notice to be placed on the deed of a mitigated property that the property was mitigated using federal funds, and that failure to maintain the required flood insurance will result in ineligibility to receive future federal disaster relief assistance. Further, under this same statutory authority, FEMA will not provide additional financial assistance under its HMA programs or its other programs such as public assistance and individual assistance, if it discovers that flood insurance was not maintained.

However, neither this statute, nor any other statute or regulation, authorize FIMA to ensure and enforce that the mandatory purchase requirement is maintained for the life of the structure once the grant is closed out. As the grantor of federal funds, FIMA has authority to enforce the terms of the grants. Once the project is completed and the grant is closed out (except for acquisitions under 44 CFR Part 80)<sup>3</sup>, FIMA's options to enforce

<sup>1</sup> Title 2 of the Code of Federal Regulations (C.F.R.), "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards," §§ 200.327 (addressing quarterly financial reporting requirement for non-federal entity), 200.328 (addressing quarterly performance reporting requirement for non-federal entity), 200.333 (addressing 3-year retention requirement for non-federal entity), 200.343 (addressing closeout), 200.344 (addressing federal agency's post-closeout grant adjustments), and 200.501 (audit requirements for non-federal agency).

<sup>2</sup> For Flood Mitigation Assistance, Title 44, Code of Federal Regulations (C.F.R.), §§ 79.9(a), "Grant Administration," (addresses performance and financial reporting requirements, compliance with 2 C.F.R. Part 200), 79.9 (addressing closeout); for the Hazard Mitigation Grant Program, 206.438(a), "Project Management," (addressing compliance with 2 C.F.R. Part 200), 206.438(c) (addresses progress reports), 206.438(e) (addresses audit requirements); *see also* Hazard Mitigation Assistance Guidance (2015), Part VI, Sections E, F (addressing financial and performance reporting requirements and closeout for all Hazard Mitigation Assistance programs).

<sup>3</sup> Title 44, Code of Federal Regulations (C.F.R.), §§ 80.19(d), (e) (addresses monitoring, reporting and enforcement requirements for ensuring acquired property complies with open space use after closeout of the grant).



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the maintain-flood-insurance requirement are limited. Recoupment of funds is not an option because: 1) it would undermine the purpose of the grant (to assist with mitigation); 2) the funds were properly spent as verified during closeout of the grant; and 3) recoupment would be an unwieldy process. Tracking owners when property changes hands and regularly checking on a homeowner's compliance across the wide spectrum of FIMA projects would result in an extremely challenging recoupment process on a property-by-property level. Even if non-compliance is found, FIMA has no enforcement mechanism or authority to compel the homeowner to comply.

The deed restriction FIMA requires to be placed on a mitigated property also ensures that any future purchasers, including lenders, are notified of the mandatory flood insurance purchase requirement. Consequences of noncompliance with this condition beyond FIMA may result in denial of federally backed mortgage applications and ineligibility for other federal aid such as: Housing and Urban Development disaster resources, Small Business Association disaster loans, etc. Validation of the property title for compliance with the mandatory purchase requirement should be made to the awarding or loan issuing agency as the deed restriction appears on the title and is the operative tracking mechanism.

ECD: December 31, 2021.

**Recommendation 3:** Strengthen its approach for mitigating SRL properties by promoting communities' use of the Increased Cost of Compliance repetitive loss provision available under the NFIP.

**Response:** Concur. FIMA's Mitigation Directorate will strengthen its approach for mitigating SRL properties by promoting communities' use of the Increased Cost of Compliance repetitive loss provision available under the NFIP.

ECD: December 31, 2021.



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**Appendix C**  
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