ND Department of Emergency Services (NDDES) Acquisition/Demolitions and Acquisition/Relocations Fact Sheet

Acquisition/Demolitions and Acquisitions/Relocations are two of the most common projects funded under FEMA’s Unified Hazard Mitigation Assistance (HMA) Programs. The requirements set forth by FEMA for Acquisition/Demolitions and Acquisition/Relocations are going to be the same after a project is awarded regardless of the HMA program.

- **Acquisition/Demolitions** entail purchasing a home and the land it sits upon, and deed restricting the land in perpetuity. A detached garage may be purchased, or if the garage is attached to the home, then one outbuilding may be purchased in lieu of the detached garage. Once purchased, all structures have to be removed within 90 calendar days of closing. The home and any remaining outbuildings can be removed either through demolitions, or they can be put up for public auction with the highest bidder responsible for removing the structures within the remainder of the 90 day window.

- **Acquisition/Relocations** only purchase and deed restrict the land where a threatened or damaged home is located. The home still needs to be removed within 90 calendar days of purchasing the land, but instead of demolitions or auctions, the house is moved by a professional home moving company and placed on a new lot. The new lot is the responsibility of the homeowner to purchase, must be outside of the 100-year floodplain, and not have any environmental impacts. Eligible cost items include the placement of a new foundation; which must be built to current codes and standards, and the foundation style needs to match that of the old home (slab on-grade, split-level, or an unfinished basement). Additionally, it is an eligible cost to connect the utilities to the home, but running the utilities from the curb up to the house is the homeowner’s responsibility.

The following are the steps needed to complete an Acquisition/Demolition:

- Get two pre-event fair market value appraisals completed on each property. The appraisals should include the house, with a detached garage or one outbuilding as mentioned above, and the surrounding land. The average of those two appraisals is the base offer amount. If the appraisals are too far apart (over 15% difference), speak with the appraisers to see why there was such a difference in opinion and try to get the situation resolved. If the homeowner would like a third appraisal, it can be completed and averaged in at their own expense.
  - Appraisals should also take into account damages that were not repaired prior to the disaster event a home is being purchased under. For example, if a home is being acquired under the 2011 disaster, then any damages that occurred before 2011 and were not repaired should be reflected in the appraised value.

- Ensure there is no Duplication of Benefits (DOBs) for the home. Since these are federally administered grant programs, and FEMA is paying for 75% of all eligible costs, the applicants must ensure that federal funds are not being duplicated. To do this, contact the NDDES and have them complete a DOB check. The NDDES will look into the
FEMA Individual Assistance (IA) and National Flood Insurance Program (NFIP) records to see how much the homeowner received for home repairs from these programs.

- If the homeowner received nothing from either program, then there is no duplication of benefits.
- If the homeowner did receive funding, they need to provide receipts to show the money was used for permanent repairs to the home. If they provide enough eligible receipts to show the money they received from IA and the NFIP went into permanent repairs on their home, then there is no duplication of benefits.
- If the homeowners cannot provide enough receipts or any receipts at all, then the amount not used for permanent repairs will be deducted from the final offer.

Only properties with clear titles can be acquired under these programs. Perform a title search on the property in question to determine the legal titleholder and any possible encumbrances to purchasing the property. This can be done through the use of a legal firm who can provide a title opinion and abstract of the property. If there are back taxes, liens, or judgments against the homeowners, which can act as liens on property in some areas, then those items must be removed from the title before an acquisition can occur. Those items are the homeowner’s responsibility to get cleared, and if they are unwilling to take care of them, then the property cannot be purchased.

FEMA Environmental/Historic Preservation (EHP) Branch requires acquisition properties have an asbestos inspection completed. If asbestos is found, then asbestos abatement will need to be completed and the certificate of clearance must be provided to the NDDES.

Once these initial items have been completed, a final offer can be given to the homeowner. The final offer will include both appraisal amounts, the average of those appraisals, and a deduction for any DOB the property may have. The property owner should be given a reasonable amount of time to accept or reject this final offer (i.e. 30 days).

- In addition, many applicants cannot afford the local share of acquisition projects, so the applicant is allowed to deduct the local shares of all acquisition costs from the final offer if they so choose. If all the costs for a property acquisition are known (such as pre-award, project management, legal, acquisition, demolition, and environmental costs), you can tabulate the local shares for all these costs and deduct that amount from the homeowner’s final offer. If all costs are not known, many applicants will deduct a pre-determined amount from the final offer (i.e. $3,000) to cover all the local shares of the acquisition, and then reimburse the homeowner any remaining funds after all totals are calculated and bills have been paid.

If the homeowner rejects the final offer, they will be withdrawn from the program. If the homeowner accepts the final offer, then the applicant can proceed with transferring the title and closing on the property. The community will pay the fees for the title transfer, recording fees, transfer taxes, and evidence of title and legal description. This should result in a Warranty Deed (with FEMA Exhibit A Deed Restriction language) which will belong to the applicant henceforth. A copy of all Warranty Deeds must be provided to the NDDES and FEMA at the end of the project, which are kept on file in perpetuity.
From that point onwards, no permanent structures are allowed to be built on these properties again due to FEMA Deed Restrictions.

- Once the deed has been transferred into the applicant’s name, and the property is closed, the 90-day window to remove the structure begins. To meet FEMA EHP requirements, the applicant must obtain floodplain development permits from the local Floodplain Administrator before removing any structures from the floodplain, and any dirt that is used as backfill after demolition must come from an approved site that is either State Historical Preservation Office approved, ND Department of Transportation Certified, or from a county/city stockpile.

- If the applicant is going to demolish the property, they must hire a licensed contractor to complete the structure demolition and site restoration. The applicant must also comply with all environmental requirements set forth by the ND Department of Health (NDDoH) environmental response letter drafted when the project was initially approved. The NDDoH requires that notification is provided to the NDDoH Division of Air Quality no less than 10 days before demolition takes place, noise and dust emission must be taken into consideration and brought to a minimum during demolition, and the debris must be hauled to an approved landfill or dumpsite. Compliance with all these requirements must be documented and provided to the NDDES.

- If the applicant wants to auction off structures instead of doing demolitions, they must clearly identify this method of property disposition in their application. Additionally, they must follow North Dakota Century Code to ensure all auctions are advertised correctly (For example, an auction for county owned property must be advertised in the county run newspaper once per week for three consecutive weeks before the auction can be held). Reference the ND Century Code or contact the local State’s Attorney to ensure that proper advertisement will take place. Auctions can either be public or sealed bid auctions, and any money made from an auction must be paid back to the NDDES and FEMA in the appropriate cost shares within 60 days as it is considered Program Income. The winning bidder of the auction needs to become legally responsible for removing the structures from the land by the end of the 90 day timeframe started when the property was closed. If the home is not removed by the 90th day, the county can demolish the property and must follow the environmental requirements as described above.

- After all structures are removed, the site must be restored to a pre-construction condition. This means the foundation may need to be removed, or a hole punched in the bottom and the walls caved in, so that the site can be backfilled, leveled, and reseeded. Once the site has been restored, the Acquisition/Demolition of this property is completed.

When all properties within an Acquisition/Demolition project have been removed, the project can begin the closeout phase. Ensuring that all the above items were completed is essential to closing out an Acquisition/Demolition. However, if there were any other requirements set forth by FEMA or the NDDoH, those requirements must also be taken into account and proof must be provided to the NDDES and FEMA that they were completed.
The ND State Mitigation Officer will work with all applicants to assist with project closeout, but the above mentioned items are the minimum required to have a project closed and financially reconciled with FEMA.

The following are the steps needed to complete an Acquisition/Relocation:

- Get 2 fair market value appraisals completed for the land being purchased. The average of those two appraisals is the base offer amount. If the appraisals are too far apart (over 15% difference), speak with the appraisers to see why there was such a difference in opinion and try to get the situation resolved. If the homeowner would like a third appraisal, it can be completed and averaged at their own expense.

- Only properties with clear titles can be acquired under these programs. Perform a title search on the property in question to determine who the legal titleholder is and any possible encumbrances to purchasing the property. This can be done through the use of a legal firm who can provide a title opinion and abstract of the property. If there are back taxes, liens, or judgments against the homeowners, which can act as liens on property in some areas, then those items must be removed from the title before an acquisition can occur. Those items are the homeowner’s responsibility to get cleared, and if they are unwilling to take care of them, then the property cannot be purchased.

- FEMA Environmental/Historic Preservation (EHP) Branch requires acquisition properties have an asbestos inspection completed. If asbestos is found, then asbestos abatement will need to be completed and the certificate of clearance must be provided to the NDDES.

- Once these initial items have been completed, a final offer can be given to the homeowner. The final offer will include both appraisal amounts, the average of those appraisals, and determination of compensation for the relocation. The property owner should be given a reasonable amount of time to accept or reject this final offer (i.e. 30 days).
  - In addition, many applicants cannot afford the local share of acquisition projects, so the applicant is allowed to deduct the local shares of all acquisition costs from the final offer if they so choose. If all the costs for an Acquisition/Relocation are known (such as pre-award, project management, legal, acquisition, relocation, foundation construction, utilities, and environmental costs), you can tabulate the local shares for all these costs and deduct that amount from the homeowner’s final offer. If all costs are not known, many applicants will deduct a pre-determined amount from the final offer (i.e.$3,000) to cover all the local shares of the acquisition, and then reimburse the homeowner any remaining funds after all totals are calculated and bills have been paid.

- If the homeowner rejects the final offer, they will be withdrawn from the program. If the homeowner accepts the final offer, then the applicant can proceed with transferring the title and closing on the property. The community will pay the fees for the title transfer, recording fees, transfer taxes, and evidence of title and legal description. This should result in a Warranty Deed (with FEMA Exhibit A Deed Restriction language) which will belong to the applicant henceforth. A copy of all Warranty Deeds must be provided to the NDDES and FEMA at the end of the project, which are kept on file in perpetuity. From that point
onwards, no permanent structures are allowed to be built on these properties again due to FEMA Deed Restrictions.

- Once the deed has been transferred into the applicant’s name, and the property is closed, the 90-day window to remove the structure begins. To meet FEMA EHP requirements, the applicant must obtain floodplain development permits from the local Floodplain Administrator before removing any structures from the floodplain, and any dirt that is used as backfill during site restoration must come from an approved site that is either State Historical Preservation Office approved, ND Department of Transportation Certified, or from a county/city stockpile.

- The homeowner must have purchased a new lot for their home which is not within the 100 year floodplain and has no environmental impacts. The homeowner, local building officials, and a professional home mover will then need to meet and determine how the structure will be moved. This includes discussing a moving route, temporary closure of streets and removal of overhead power lines, traffic signals, and possibly even street lights. All other risks must be identified and avoided, to include low hanging trees, narrow roads, sharp turns, etc. This should culminate in a detailed moving schedule, and an estimate to complete the relocation.

- The foundation for the new location must be constructed to accommodate the dimensions of the relocated structure. The foundation should also be built to current codes and standards, and be the same style as the original foundation (slab on-grade, split level, or unfinished basement). Once constructed, the professional home moving company can begin the structure relocation.

- Once the structure has been relocated, it is an allowable cost to hookup utilities to the home; however, running the utilities from the curb up to the home is the homeowner’s responsibility.

- After the structure has been moved, the land where the home used to sit must be restored to a pre-construction condition. This means the foundation may need to be removed, or a hole punched in the bottom and the walls caved in, so that the site can be backfilled, leveled, and reseeded. Once the site has been restored, the Acquisition/Relocation of this property is completed.

When all properties within this Acquisition/Relocation project have been removed, the project can begin the closeout phase. Ensuring that all the above items were completed is essential to closing out an Acquisition/Relocation. However, if there were any other requirements set forth by FEMA or the NDDoH, those requirements must also be taken into account and proof must be provided to the NDDES and FEMA to show they were completed.

The ND State Mitigation Officer will work with all applicants to assist with project closeout, but the above mentioned items are the minimum required to have a project closed and financially reconciled with FEMA.