

9110-17

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

[Docket No. DHS-2010-XXXX]

Privacy Act of 1974; Department of Homeland Security Federal Emergency

Management Agency – 009 Hazard Mitigation Assistance Grant Programs

System of Records

AGENCY: Privacy Office; DHS.

ACTION: Notice of Privacy Act system of records.

SUMMARY: In accordance with the Privacy Act of 1974, the Department of Homeland Security, Federal Emergency Management Agency, is revising and reissuing an existing system of records titled, Department of Homeland Security Federal Emergency Management Agency – 009 Hazard Mitigation Assistance Grant Programs System of Records. This system of records will include the personally identifiable information of individual property owners whose properties are identified by their state, local, tribal, or territorial government in an application for Federal Emergency Management Agency Hazard Mitigation Assistance grant funds to mitigate risk of loss to their property and/or structure (e.g. house or commercial building), as well as information about the submitting organization’s point-of-contact for the grant. As a result of the biennial review of this system, the Department of Homeland Security is proposing changes to a.) the system name to reflect the Hazard Mitigation Assistance Grant Programs; b.) the categories of individuals to clarify the sources of the personally identifiable information within the system of records; c.) the categories of records to include information about grant points

of contact and Governor's representatives; d.) the addition of the Hazard Mitigation Grant Program, the Severe Repetitive Loss Program, the Repetitive Flood Claims Program, and any other authorized Hazard Mitigation Assistance grant programs to this system of records; and e.) updated routine uses to better align with the system. This revised system will be included in the Department of Homeland Security's inventory of record systems.

DATES: Submit comments on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. This new system will be effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments, identified by docket number DHS-2010-XXXX by one of the following methods:

- Federal e-Rulemaking Portal: <http://www.regulations.gov>. Follow the instructions
- Fax: 703-483-2999.
- Mail: Mary Ellen Callahan, Chief Privacy Officer, Privacy Office, Department of Homeland Security, Washington, DC 20528.
- Instructions: All submissions received must include the agency name and docket number for this rulemaking. All comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided.
- Docket: For access to the docket to read background documents or comments received go to <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: For general questions please contact: Dr. Lesia M. Banks (202-646-3323), Acting Privacy Officer, Federal Emergency

Management Agency, Department of Homeland Security, Washington, DC 20478. For privacy issues please contact: Mary Ellen Callahan (703-235-0780), Chief Privacy Officer, Privacy Office, Department of Homeland Security, Washington, DC 20528.

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Homeland Security (DHS) Federal Emergency Management Agency (FEMA) is revising, reissuing, and renaming a system of records under the Privacy Act of 1974 (5 U.S.C. § 552a), for its Hazard Mitigation Assistance Grant Programs. The Department is updating, renaming, and reissuing the DHS/FEMA – 2006-0002 National Emergency Management Information System – Mitigation (MT) Electronic Grants Management System of Records [December 15, 2004, 69 FR 75079] as described below. The National Emergency Management Information System – Mitigation (MT) Electronic Grants Management System (NEMIS-MT eGrants) Privacy Impact Assessment (January 19, 2007) is being updated to ensure its consistency with this system of records notice.

FEMA collects personally identifiable information through paper and electronic applications for its Hazard Mitigation Assistance (HMA) grant programs. This system of records notice includes renaming the system of records to eliminate the specific reference to “electronic grants management” and therefore broaden the coverage of the system of records to include paper-based applications for its HMA grant programs. In addition this system of records covers additional HMA grants programs not previously included in the MT Electronic Grants Management System of Records. The HMA grant programs

include, but may not be limited to, the Pre-Disaster Mitigation (PDM) grant program (42 U.S.C. § 5133), the Hazard Mitigation Grant Program (HMGP) (42 U.S.C. § 5170c), the Flood Mitigation Assistance (FMA) grant program (42 U.S.C. § 4104c), the Severe Repetitive Loss (SRL) grant program (42 U.S.C. § 4102a), and the Repetitive Flood Claims (RFC) grant program (42 U.S.C. § 4030). HMA grant programs provide funds to eligible applicants to implement mitigation activities to reduce or eliminate the risk of future damage to life and property from hazards.

Eligible applicants for FEMA HMA grants include: all 50 States; the District of Columbia; the United States Virgin Islands; the Commonwealth of Puerto Rico; Guam; American Samoa; the Commonwealth of the Northern Mariana Islands; and Federally recognized Indian Tribal governments. Eligible sub-applicants of FEMA HMA grants include: state agencies, local governments, Indian Tribal governments, and, for HMGP only, certain private, non-profit entities, to which a sub-grant is awarded by an applicant.

Some applications for HMA grant programs propose mitigation activities such as retrofitting structures, elevating structures, acquiring and demolishing or relocating structures, minor structural flood control projects, or constructing safe rooms, that impact property that is privately owned by individuals. These applications include the minimum amount of the property owner's personally identifiable information necessary to ascertain the eligibility of that property and/or structure (e.g., house or commercial building) under mitigation grant program regulations.

Generally, the sources of the information that FEMA collects in its HMA grant applications are state, local, tribal, and territorial partners seeking grant funding, however private and non-profit organizations may be additional sources of information. The

personally identifiable information collected may include: an individual property owner's name; home phone number; office phone number; cell phone number; the property address; the mailing address; the property owner's status regarding flood insurance; National Flood Insurance Program (NFIP) Policy Number; and Insurance Policy Provider for the property proposed to be mitigated with FEMA funds. This system of records notice has been revised to include information about grants points of contact who may be submitting grant applications such as the name of the organization submitting the grant, the name of the organization's point of contact (POC) for the grant, and the grant POC's office phone number, office mailing address, and email address; as well as information about the Governor's representatives who may be signing grant applications, such as the Governor's Representative's name and signature. This notice will make the public aware of routine management and oversight information sharing between FEMA and other federal agencies, state and local governments, and contractors providing services in support of FEMA's mitigation grant programs. To this end, this system of records notice reflects updated routine uses to describe the sharing of these records.

The DHS/FEMA—004 Grant Management Information Files System of Records Notice, published elsewhere in the Federal Register, covers FEMA's other disaster and non-disaster grant programs apart from those in this Hazard Mitigation Assistance Grant Programs. Information from the Hazard Mitigation Assistance Grant Programs Files System of Records may be shared with the Grants Management Information Files System or Records, and vice versa, on a need to know basis.

The information referenced in this system of records notice will be collected and stored electronically or on paper and maintained at FEMA Headquarters in Washington,

DC and field offices. Records may be retrieved by the applicant or sub-applicant organization submitting the grant application, mitigation activity type, hazard type, award date, and/or Congressional district.

II. Privacy Act

The Privacy Act embodies fair information principles in a statutory framework governing the means by which the United States Government collects, maintains, uses, and disseminates personally identifiable information. The Privacy Act applies to information that is maintained in a “system of records.” A “system of records” is a group of any records under the control of an agency for which information is retrieved by the name of an individual or by some identifying number, symbol, or other identifying particular assigned to the individual. In the Privacy Act, an individual is defined to encompass United States citizens and legal permanent residents. As a matter of policy, DHS extends administrative Privacy Act protections to all individuals where systems of records maintain information on U.S. citizens, lawful permanent residents, and visitors. Individuals may request access to their own records that are maintained in a system of records in the possession or under the control of DHS by complying with DHS Privacy Act regulations, 6 CFR Part 5.

The Privacy Act requires each agency to publish in the Federal Register a description denoting the type and character of each system of records that the agency maintains, and the routine uses that are contained in each system in order to make agency record keeping practices transparent, to notify individuals regarding the uses to which personally identifiable information is put, and to assist individuals to more easily find such files within the agency. Below is the description of the Department of Homeland

Security Federal Emergency Management Agency – 0XX Hazard Mitigation Assistance Grant Programs System of Records.

In accordance with 5 U.S.C. § 552a(r), DHS has provided a report of this system change to the Office of Management and Budget and to Congress.

System of Records:

DHS/FEMA – 009

System name:

Department of Homeland Security Federal Emergency Management Agency – 0XX Hazard Mitigation Assistance Grant Programs System of Records

Security classification:

Unclassified

System location:

Records are maintained at Federal Emergency Management Agency Headquarters, 500 C Street SW, Washington, DC 20472, and field offices.

Categories of individuals covered by the system:

Categories of individuals covered by this system include the respective points of contact for the grant applications filed by recipients of grant funds (grantees), such as state, local, tribal, and territorial governments, as well as individual private property owners whose properties are identified in applications for FEMA HMA grant funds.

Categories of records in the system:

HMA paper applications are filed on the Standard Form (SF) 424. Electronic HMA applications are filed using the Mitigation eGrants system via the FEMA portal at <https://portal.fema.gov>.

- Individual property owner's name;
- Individual owner's damaged property address;
- Individual property owner's home phone number;
- Individual property owner's office phone number;
- Individual property owner's cell phone number;
- Individual property owner's mailing address;
- Individual property owner's status regarding flood insurance;
- Individual property owner's National Flood Insurance Program (NFIP) Policy Number;
- Individual property owner's Insurance Policy Provider for the property proposed to be mitigated with FEMA funds;
- Individual property owner's signature;
- Grant applicant organization point of contact (POC) name;
- Grant applicant POC organization;
- Grant applicant POC office phone number;
- Grant applicant POC office mailing address;
- Grant applicant POC email address;
- Grant applicant's Dun and Bradstreet Data Universal Numbering System (DUNS)
- Governor's Authorized Representative name; and
- Governor's Authorized Representative signature.

Authority for maintenance of the system:

Sections 203 and 404 of the Robert T. Stafford Disaster Relief and

Emergency Assistance Act, as amended, 42 U.S.C. § 5133 and 42 U.S.C. § 5170c; section 1366 of the National Flood Insurance Act, (NFIA) as amended, 42 § U.S.C. 4104c; section 1323 of the NFIA, 42 U.S.C. § 4030; and section 1361A of the NFIA, 42 U.S.C. § 4102a.

Purpose(s):

The purpose of this system of records is to determine the eligibility of a property or structure for FEMA's hazard mitigation grant programs, to verify the eligibility of activities for mitigation grants, to identify repetitive loss properties, and to implement measures to reduce future property damage from hazards.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

In addition to those disclosures generally permitted under 5 U.S.C. § 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside DHS as a routine use pursuant to 5 U.S.C. § 552a(b)(3) as follows:

A. To the Department of Justice (including United States Attorney Offices) or other federal agency conducting litigation or in proceedings before any court, adjudicative or administrative body, when it is necessary to the litigation and one of the following is a party to the litigation or has an interest in such litigation:

1. DHS or any component thereof;
2. any employee of DHS in his/her official capacity;
3. any employee of DHS in his/her individual capacity where DOJ or

DHS has agreed to represent the employee; or

4. the United States or any agency thereof, is a party to the litigation or has an interest in such litigation, and DHS determines that the records are both relevant and necessary to the litigation and the use of such records is compatible with the purpose for which DHS collected the records.

B. To a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of the individual to whom the record pertains.

C. To the National Archives and Records Administration (NARA) or other federal government agencies pursuant to records management inspections being conducted under the authority of 44 U.S.C. §§ 2904 and 2906.

D. To an agency, organization, or individual for the purpose of performing audit or oversight operations as authorized by law, but only such information as is necessary and relevant to such audit or oversight function.

E. To appropriate agencies, entities, and persons when:

1. DHS suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised;

2. The Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by DHS or another agency or entity) or harm to the individual that rely upon the compromised information; and

3. The disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with DHS's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

F. To contractors and their agents, grantees, experts, consultants, students, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for DHS, when necessary to accomplish an agency function related to this system of records. Individuals provided information under this routine use are subject to the same Privacy Act requirements and limitations on disclosure as are applicable to DHS officers and employees.

G. To an appropriate federal, state, tribal, local, international, or foreign law enforcement agency or other appropriate authority charged with investigating or prosecuting a violation or enforcing or implementing a law, rule, regulation, or order, where a record, either on its face or in conjunction with other information, indicates a violation or potential violation of law, which includes criminal, civil, or regulatory violations and such disclosure is proper and consistent with the official duties of the person making the disclosure.

H. To another federal, state, United States territory or tribal government agency charged with administering federal mitigation or disaster relief programs to prevent a duplication of efforts or a duplication of benefits between FEMA and the other agency. FEMA may disclose information to a state, U.S. territory, Indian tribal or local community agency eligible to apply for mitigation grant programs administered by FEMA.

I. To the news media and the public, with the approval of the Chief Privacy Officer in consultation with counsel, when there exists a legitimate public interest in the disclosure of the information or when disclosure is necessary to preserve confidence in the integrity of DHS or is necessary to demonstrate the accountability of DHS's officers, employees, or individuals covered by the system, except to the extent it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Disclosure to consumer reporting agencies:

None.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system.

Storage:

Records in this system are stored electronically or on paper in secure facilities in a locked drawer behind a locked door. The records are stored on magnetic disc, tape, digital media, and CD-ROM.

Retrievability:

Records may be retrieved by the applicant or sub-applicant organization submitting the grant application, mitigation activity type, hazard type, award date, and/or Congressional district.

Safeguards:

Records in this system are safeguarded in accordance with applicable rules and policies, including all applicable DHS automated systems security and access policies. Strict controls have been imposed to minimize the risk of compromising the information

that is being stored. Access to the records in this system is limited to those individuals who have a need to know the information for the performance of their official duties and who have appropriate clearances or permissions.

Retention and disposal:

In accordance with Federal records retention requirements Grant administrative records and hard copies of unsuccessful grant applications files are destroyed when two years old. (Government Records Schedule (GRS) No. 3, Procurement, Supply, and Grant Records, Item 14). Electronically received and processed copies of unsuccessful grant application files will be stored for 3 years from the date of denial, and then deleted. (GRS No. 3, Procurement, Supply, and Grant Records, Item 13). Grant Project Records are maintained for three years after the end of the fiscal year that the grant or agreement is finalized or when no longer needed, whichever is sooner. These records are disposed of IAW FEMA Records Schedule N1-311-95-1, Item 1. Grant Final Reports are retired to the Federal Records Center three years after cutoff, and then transferred to National Archives 20 years after cutoff. These records are maintained IAW FEMA Records Schedule N1-311-95-1, Item 3. All other grant (both disaster and non disaster) records will be stored for 6 years and 3 months from the date of closeout (where closeout is the date FEMA closes the grant in its financial system) and final audit and appeals are resolved and then deleted. These records are disposed of according to IAW FEMA Records Schedule N1-311-95-1, Item 2; N1-311-01-8, Item 1; and N1-311-04-1, Item 1. Records of real properties (property acquisition agreement and lists of acquired properties) acquired with FEMA funds for maintenance in accordance with agreement terms of the grant cannot be destroyed until agreement with locality is no longer viable.

System Manager and address:

Director ((202)-646-2780), Risk Reduction Division, DHS/FEMA, 1800 S. Bell Street, Arlington, VA 20598-3030.

Notification procedure:

Individuals seeking notification of and access to any record contained in this system of records, or seeking to contest its content, may submit a request in writing to the Federal Emergency Management Agency FOIA Officer, whose contact information can be found at <http://www.dhs.gov/foia> under “contacts.” If an individual believes more

than one component maintains Privacy Act records concerning him or her the individual may submit the request to the Chief Privacy Officer and Chief Freedom of Information Act Officer, U.S. Department of Homeland Security, 245 Murray Drive, S.W., Building 410, STOP-0655, Washington, D.C. 20528.

When seeking records about yourself from this system of records or any other Departmental system of records your request must conform with the Privacy Act regulations set forth in 6 CFR Part 5. You must first verify your identity, meaning that you must provide your full name, current address and date and place of birth. You must sign your request, and your signature must either be notarized or submitted under 28 U.S.C. § 1746, a law that permits statements to be made under penalty of perjury as a substitute for notarization. While no specific form is required, you may obtain forms for this purpose from the Chief Privacy Officer and Chief Freedom of Information Act Officer, <http://www.dhs.gov> or 1-866-431-0486. In addition you should provide the following:

- An explanation of why you believe the Department would have information on you;
- Identify which component(s) of the Department you believe may have the information about you;
- Specify when you believe the records would have been created;
- Provide any other information that will help the FOIA staff determine which DHS component agency may have responsive records; and

- If your request is seeking records pertaining to another living individual, you must include a statement from that individual certifying his/her agreement for you to access his/her records.

Without this bulleted information the component(s) may not be able to conduct an effective search, and your request may be denied due to lack of specificity or lack of compliance with applicable regulations.

Record access procedures:

See “Notification procedure” above.

Contesting record procedures:

See “Notification procedure” above.

Record source categories:

Information in this system of records is obtained by FEMA from state, local, tribal, or territorial governments via hard copy and electronic applications for assistance. Individual property owners cannot apply directly to FEMA for assistance.

Exemptions claimed for the system:

None.

Dated:

Mary Ellen Callahan

Chief Privacy Officer,

Department of Homeland Security.