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April 29, 2013

John Benson
Legislative Liaison/Alternate State Coordinating Officer
Iowa Homeland Security & Emergency Management
7105 NW 70th Ave.
Camp Dodge, Bldg. W-4
Johnston, IA 50131

VIA EMAIL

RE: Flood Mitigation Program

Dear Mr. Benson,

The purpose of this letter is to advise you of some apparent inconsistencies between Iowa Code Chapter 418, the legislation establishing the State's Flood Mitigation Program, and the Draft Application for this program.

Without clarification, we believe these issues could prevent communities from taking full advantage of the Flood Mitigation Program and leave them at continued risk of future flood damage. We describe these issues below in order of priority. We have attached additional information to help illustrate our concerns.

1. Calculation of Local Match Funding

A calculation used in the Draft Application does not appear to match the legislative language. The legislation dictates that the Flood Mitigation Program funding cannot be more than 50% of the total project cost, and that the remaining funds must be a combination of federal and local funds. In contrast, the Draft Application outlines that the Flood Mitigation Program funding cannot exceed local funding.

Section 418.9(2)d states: "The board shall not approve a project unless at least fifty percent of the total cost of the project, less any federal assistance for the project, is funded using local matching funds".

This language establishes that that the maximum state flood mitigation funding that the board can approve for a project is 50% of the total project cost. The remaining 50% must be a combination of federal and local funds.

The legislation requires that the *combination* of local and federal funds must equal the state flood mitigation funding. The Budget Detail (Tab C-2) of the Draft Application requires that the local match must equal the state flood mitigation funding. Please see the enclosed **Appendix A**

for additional information comparing the calculation of local match in the legislation and in the Draft Application.

The calculation of local match is critically important for communities. We hope the Draft Application will be revised so that the *combination* of federal and local funding will be at least 50% of the total project cost.

2. Interest on the Bond is Part of the Project Cost

It is clear that the legislation anticipated and allowed for a community to issue bonds for a project and to utilize the state flood mitigation sales tax revenue to help retire the debt. But it is unclear how the project costs associated with financing the project should be reflected in the total project cost.

Section 418.14(1)c states: "The costs of a project may include but are not limited to... interest during construction or reconstruction and for one year after completion of the project... and such other costs as are necessary for the construction or reconstruction of the project and financing thereof."

Section 418.12(4)a states: "In lieu of quarterly requests, (the City) may submit a certified schedule of principal and interest payments on bonds issued." The department of revenue shall then "(remit) . . . the amounts necessary for such principal and interest payments in accordance with the certified schedule."

Section 418.13(1) states: "Sales tax revenue remitted by the department of revenue . . . shall be used to fund the costs of the governmental entity's approved project and to pay principal and interest on bonds issued."

Interest on bonds issued to fund a project (20-year bond maximum) will be a significant part of the total project cost. We believe the bond interest should be treated as one of the line items that make up the total project cost.

3. Inconsistencies between Application and Legislation

There are two instances where the Draft Application language does not conform to the legislation, as identified in the enclosed **Appendix B**.

We recommend revision of the Draft Application to match the legislation as follows:

1. "if the larger project is a part, otherwise" be changed to "if the larger project, of which the project is a part, otherwise"
2. Language relating to the calculation of maximum state award.

4. Project Completion Deadline

The Legislation does not mention a project completion deadline, but the Draft Application (Tab A, page 5) reflects a 36-month total project duration. The size and complexity of flood control projects require prudence. The legislation does not set a project completion deadline.

We recommend that the Administrative Rules should reflect that the Board can grant extensions to the 36-month deadline, on a case by case basis.

5. Bonds - relating to the project approval date

Per the legislation, the governmental entity can collect sales tax revenue for a period of 20 years following the board's approval of the project, not 20 years following the issuance of debt for the project.

Section 418.15(1) states: "A governmental entity shall not receive remittances of sales tax revenue under this chapter after twenty years from the date the governmental entity's project was approved by the board."

Depending on when the board approves a project and when the debt is issued, the last bond payment may not be covered by sales tax increment due to the 20-year limitation in the legislation.

We recommend that the Administrative Rules establish that the "board approval date" be considered the same as the bond date set forth in the approved certified schedule submitted to the Department of Revenue pursuant to Section 418.12(4)(a).

6. Project Officer assigned to each applicant

The Draft Application proposes that a "Project Officer will work with you to ensure that your application is complete, which may require multiple revisions." The availability and work load of a Project Officer may slow the application review and approval process.

We recommend that the Board ensure that Project Officers are available and will have the time to respond in a timely manner.

Conclusion

The State Flood Mitigation Program will be a vitally important source of funding for communities across Iowa. Thank you for your consideration of our comments. Please feel free to contact me or Assistant City Manager Teri Goodmann for more information or with any questions.

Sincerely,



Michael C. Van Milligen
City Manager

Attachments

cc: Teri Goodmann, Assistant City Manager
Gus Psihoyos, City Engineer
Deron Muehring, Civil Engineer
Jenny Larson, Budget Director
Laura Carstens, Planning Services Manager

APPENDIX A

Calculation of Local Match Funding

Pertinent Legislation:

Section 418.9(2)d: “The board shall not approve a project unless at least fifty percent of the total cost of the project, less any federal assistance for the project, is funded using local matching funds”

Legislation Section 418.9(2)(d): 50% x Total Project Cost – Federal Assistance = Local Match

Total Estimated Cost		300,000,000
Federal Funds (at least 20% of total)	\$ 60,000,000 (20.0%)	
Local Funds	\$ 90,000,000	
Total Federal and Local Funds (at least 50% of total)	\$ 150,000,000 (50.0%) →	\$ 150,000,000
Sales Tax Revenue Share (max 50% of total)		\$ 150,000,000

Draft Application Tab C-2 (Budget Detail): (Total Project Cost – Federal Assistance) x 50% = Local Match

Total Estimated Cost		\$ 300,000,000
Federal Funds (at least 20% of total)	20.0% of total	\$ 60,000,000
Non-Federal total		\$ 240,000,000
50% Sales Tax Revenue Share of Non-Federal total		\$ 120,000,000
50% Local Share of Non-Federal total		\$ 120,000,000

Legislation:

Local Match = \$90,000,000

Draft Application:

Local Match = \$120,000,000

Comparison of Local Burden:

Additional Local Share = \$30,000,000

In this example, the governmental entity will have to locally fund \$30,000,000 more of the project due to the draft applications incorrect interpretation.

Recommendation:

Change Application Tab C-2 to match the legislation requiring that the *combination* of federal and local funding be at least 50% of the total project cost.

APPENDIX B
Draft Application inconsistent with Legislation

Iowa Homeland Security & Emergency Management
7105 NW 70th Avenue
Camp Dodge, Bldg W-4
Johnston, IA 50131

DRAFT with Budget

**Iowa Flood Mitigation Program (FMP)
Flood Mitigation Project Application**

What is the Iowa Flood Mitigation Program?

Authorized under the Flood Mitigation Bill, (Senate File 2217) the Flood Mitigation Program is funded by the Flood Mitigation Fund or the use of Sales Tax Revenues to provide funding to governmental entities to implement long-term flood mitigation projects.

Eligibility:

- 1) An eligible applicant is a governmental entity as defined under the Code of Iowa section 418.1, subsection 4.
- 2) Eligible project types include construction and reconstruction of levees, embankments, impounding reservoirs, or conduits that are necessary for the protection from the effects of floodwaters and may include the deepening, widening, alteration, change, diversion, or other improvement of watercourses if necessary for the protection of such property from the effects of flood waters. A project may consist of one or more phases of construction or reconstruction that are contracted for separately **if the larger project is a part, otherwise meets the requirements** under the Code of Iowa section 418.1, subsection 5.
- 3) For the project to be eligible for sales tax increment funding it is required to have been approved to receive federal financial assistance under the Water Resources Development Act (WRDA), Environmental Protection Agency (EPA), or other federal program providing assistance specifically for hazard mitigation. The federal award must be in an amount equal to at least twenty percent (20%) of the total project cost or thirty million dollars (\$30,000,000), whichever is less. Code of Iowa section 418.4, subsection 3b.
- 4) For the project to be eligible for flood mitigation funding or sales tax increment funding, the governmental entity shall provide a local match of at least fifty percent (50%) of the total cost of the project less any federal financial assistance. Code of Iowa section 418.9, subsection 2d.

Section 2:
Last line doesn't match legislation. Should be "if the larger project, of which the project is a part of, otherwise..."

Section 4:
This is not the same calculation as described in the legislation.