



FEMA

November 10, 2008

Colonel Thomas Kirkpatrick
State Coordinating Officer
Governor's Office of Homeland Security and
Emergency Preparedness
7667 Independence Boulevard
Baton Rouge, LA 70806

Re: International Building Code (IBC) 2006

Dear Colonel Kirkpatrick:

This letter is in response to your letter dated February 12, 2008, requesting that the Federal Emergency Management Agency (FEMA) endorse the implementation and compliance with IBC 2006 as eligible reimbursable costs for Public Assistance projects. I apologize for the delay in responding to your letter.

Background

Prior to 2005, the State of Louisiana had neither adopted nor required local governments to adopt and enforce uniform construction standards. Following the devastating effects of Hurricanes Katrina and Rita, the Louisiana State Legislature established the Louisiana State Uniform Construction Code Council and a statewide construction code. The code requires that all construction initiated after January 1, 2007, must be permitted, reviewed, and inspected for compliance with IBC 2006.

Public Assistance Program Standards

Public Assistance Program regulations at 44 CFR §206.226(d) - *Standards* states that,

[f]or the costs of Federal, State, and local repair and replacement standards which change the predisaster construction of [a] facility to be eligible, the standards must:

- (1) Apply to the type of repair or restoration required...;
- (2) Be appropriate to the predisaster use of the facility;
- (3) (i) Be found reasonable, in writing, and formally adopted and implemented by the State or local government on or before the disaster declaration date or be a legal Federal requirement applicable to the type of restoration...;
- (4) Apply uniformly to all similar types of facilities within the jurisdiction of [the] owner of the facility; and
- (5) For any standard in effect at the time of a disaster, it must have been enforced during the time it was in effect.

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FEMA adopted these requirements in regulations to encourage State and local governments to adopt and enforce prudent construction codes prior to a disaster to minimize disaster-related damage in the future.

However, FEMA may accept codes that State and local governments adopt after a major disaster. In particular, 44 CFR 206.400(c) states that:

In situations where there are no locally applicable standards of safety, decency and sanitation, or where there are no applicable local codes, specifications and standards governing repair or construction activities, or where the Regional Director [Administrator] determines that otherwise applicable codes, specifications, and standards are inadequate, the Regional [Administrator] may, after consultation with appropriate State and local officials, require the use of nationally applicable codes, specifications, and standards, as well as safe land use and construction practices in the course of repair or construction activities.

Conclusion

FEMA applauds the State of Louisiana's adoption and enforcement of IBC 2006 as its statewide uniform building code. IBC 2006 will provide enhanced protection and safety for residents throughout the state and protect the Federal investment in disaster recovery. Pursuant to 44 CFR § 206.400, I have determined that the IBC 2006 is an applicable standard under the Public Assistance Program. Accordingly, the cost to comply with the requirements of IBC 2006 during the repair or reconstruction of Public Assistance projects will be eligible for reimbursement. All other Public Assistance eligibility requirements still apply.

If you have additional questions, please contact Mr. Jim Stark, Assistant Administrator for Gulf Coast Recovery, at (540) 762-2108.

Sincerely,



William Peterson
Regional Administrator

cc: David Garratt, Deputy Assistant Administrator, Disaster Assistance Directorate
Jim Stark, Assistant Administrator for Gulf Coast Recovery