

## Alternate Project Deadline Issue

- As of 09/09/12, VT submitted preliminary requests to FEMA for 15 Alternate Projects, with additional documentation to follow.
- All of these requests are for municipal projects.
- No construction on any of these projects has started.
- No statute or regulation sets a deadline for alternate project applications. The relevant regulation, 44 CFR § 206.203(d)(2)(v) states:

(v) Prior to the start of construction of any alternate project the Grantee shall submit for approval by the Regional Administrator the following: a description of the proposed alternate project(s); a schedule of work; and the projected cost of the project(s). The Grantee shall also provide the necessary assurances to document compliance with special requirements, including, but not limited to floodplain management, environmental assessment, hazard mitigation, protection of wetlands, and insurance.
- Based on certain FEMA guidance, towns believed they had to submit these applications 12 months from their kickoff meeting, so on September 7 or 8, 2012.
- The State applied for an extension on behalf of the towns, to give them until October 4, 2012.
- Many of the applications should be complete by Oct 4, 2012 and we fully intend to keep the pressure on all towns to make that deadline.
- We would like clarification that IF a town is unable to complete its application by October 4, 2012, its application will NOT be denied because of date of submission. Similarly, we would like clarification that applications for an alternate project related to the State Hospital or Waterbury State Office Complex were not due 12 months from the date of the state's kick off meeting.
- Relevant, and conflicting, FEMA guidance on this deadline issue is below:
  - o DAP 9525.13 Alternate Projects (8/22/2008) which "supersedes Recovery Policy 9525.13, Alternate Projects, published July 31, 2001 and any other previous guidance on this subject" states alternate projects must be "approved prior to the start of construction. See 44 CFR 206.203(d)(2)(v) - (DAP 9525.13 8/22/08)."
  - o Elizabeth Zimmerman, current FEMA Deputy Associate Administrator for the Office of Response & Recovery, wrote on June 3, 2010 in "Second Appeal Letter - FEMA-1766-DR-IN - PA ID # 231-U5F9L-00; Clay County Highway Department - PW # 1398; Alternate Project Request - 06/03/2010": "FEMA updated and published Recovery Policy 9525.13 on August 22, 2008... The updated policy eliminates the requirement for applicants to submit their requests for Alternate Projects within 12 months of the Kickoff Meeting."
  - o The FEMA Public Assistance Guide states: "All requests for alternate projects must be made within 12 months of the Kickoff Meeting and must be approved by [sic] **prior to construction.**" [http://www.fema.gov/pdf/government/grant/pa/pagprnt\\_071905.pdf](http://www.fema.gov/pdf/government/grant/pa/pagprnt_071905.pdf)