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Public Assistance Program and Policy Guide (V3.1)

FP 104-009-2 / April 2018 (Superseded on June 1, 2020)

FEMA

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FOREWORD

On behalf of the Federal Emergency Management Agency (FEMA), I am pleased to issue this revised Third Edition (Version 3.1) of the Public Assistance (PA) Program and Policy Guide. FEMA has archived the First and Second Editions at www.fema.gov/media-library/assets/documents/111781. FEMA applies the First Edition to incidents declared from January 1, 2016 through March 31, 2017. FEMA applies the Second Edition to incidents declared from April 1, 2017 through August 22, 2017. And FEMA applies this Version 3.1 to incidents declared on or after August 23, 2017 or, with respect to the changes made in this version, any application for assistance that was pending before FEMA as of August 23, 2017 and has not been finally resolved as of January 1, 2018. This version supersedes Version 3.0 issued on January 2, 2018.

On February 9, 2018, Congress passed and the President signed the Bipartisan Budget Act of 2018 (P.L. 115-123). The Act includes a provision amending the Stafford Act in a manner that largely codifies the changes related to houses of worship which were made in Version 3.0 of this Guide.

Version 3.0 incorporated the following revisions:

- Deleting "Community centers operated by a religious institution that provides secular activities, such as fundraising activities that help the community at large";
- Replacing "Social activities to pursue items of mutual interest or concern" with "Activities to pursue items of mutual interest or concern or social engagement" and adding the example "Activities of community centers or houses of worship open to the general public, without regard to their secular or religious nature";
- Deleting "religious" from the sentence "Facilities established or primarily used for political, athletic, religious, recreational, vocational, or academic training, conferences, or similar activities are not eligible";
- Deleting language excluding "religious education," "religious services," and "religious activities, such as worship, proselytizing, religious instruction, or fundraising activities that benefit a religious institution and not the community at large" as ineligible services;
- Deleting from Appendix B examples of mixed-use facilities that suggest FEMA must deduct from primary-use analysis activities associated with religious worship and instruction.

This Version 3.1 makes the following additional revisions to align with the changes made by the Bipartisan Budget Act:

- Changes the terms "essential governmental services" and "essential governmental-type services" to "essential social services" and "essential social-type services."
- Adds houses of worship as eligible private nonprofit facilities, distinct from community centers.
- Clarifies that houses of worship cannot be deemed ineligible because leadership or membership in the organization operating the house of worship is limited to persons who share a religious faith or practice.
- Removes the exclusion of buildings and items used primarily for religious purposes or instruction from the definition of eligible private nonprofit educational facilities and

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makes clear that such facilities are eligible regardless of their religious character or use for religious instruction.

These changes do not affect or change other general eligibility requirements for nonprofit eligibility. These include the requirement pursuant to 44 C.F.R. § 206.221(f) that private nonprofit facilities must have been granted tax exemption under Sections 501(c), (d), or (e) of the Internal Revenue Code of 1954 or provide satisfactory evidence the organization is a nonprofit organized or doing business under state law; and that pursuant to 42 U.S.C. § 5172(a)(3), private nonprofit facilities that do not provide critical services must apply to the Small Business Administration (SBA) for disaster loans and either (1) be determined ineligible for such a loan or (2) have obtained such a loan in the maximum amount for which the SBA determines the facility is eligible.

Version 3.1 also clarifies that new construction is prohibited in Coastal High Hazard Areas pursuant to 44 C.F.R. § 9.11(d)(1). This addition is included in Chapter 2:VII.B.5(a) *Minimum Requirement for Structures in a Floodplain*.

FEMA will make updates to this guide at www.fema.gov/public-assistance-policy-and-guidance on an annual basis, as necessary, and will conduct a comprehensive review no less than every three years. We look forward to your feedback to help inform the next version of this guide. Please send policy recommendations to FEMA-PAPolicy@fema.dhs.gov.

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Keith Turi
Acting Assistant Administrator
Recovery Directorate

HOW TO USE THIS PUBLICATION

The Public Assistance Program and Policy Guide is organized as shown in Figure 1. A brief summary of each chapter follows.

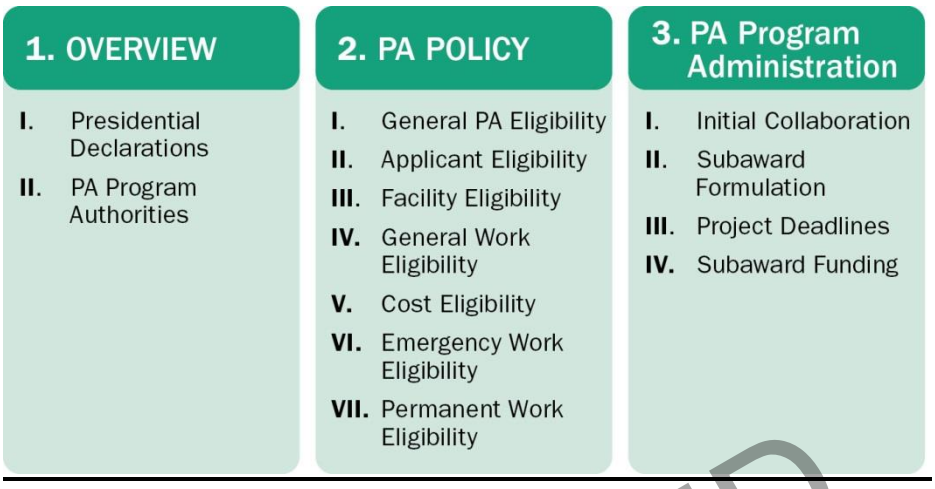

Figure 1. Public Assistance Program and Policy Guide Organization

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Chapter 1: Overview

Chapter 1 provides an overview of the Presidential declaration process, the purpose of the Public Assistance (PA) Program, and the authorities authorizing the assistance that the Federal Emergency Management Agency (FEMA) provides under the PA Program.

Chapter 2: Public Assistance Policy

Chapter 2 provides PA policy language to guide eligibility determinations. Overarching eligibility requirements are presented first and are not reiterated for each topic. For example, cost eligibility is discussed prior to work eligibility as it applies to all work. The requirement that costs be reasonable applies to costs related to all work. The requirement that contracts be properly procured applies to all contracted work.

Chapter 2 Sections I, General PA Eligibility; II, Applicant Eligibility; IV, General Work Eligibility; and V, Cost Eligibility apply to all work and must be considered when evaluating assistance for any work discussed in Chapter 2 Sections VI, Emergency Work Eligibility, and VII, Permanent Work Eligibility. Chapter 2 Section III, Facility Eligibility applies to all work except where otherwise specified.

Chapter 3: Public Assistance Program Administration

Chapter 3 provides a synopsis of the PA Program implementation process beginning with pre-declaration activities and continuing through closeout of the PA Program award, as shown in Figure 2. In addition to describing these processes, this chapter provides checklists of specific information that entities need to document throughout the response and recovery phases of the incident to help substantiate claims for assistance.

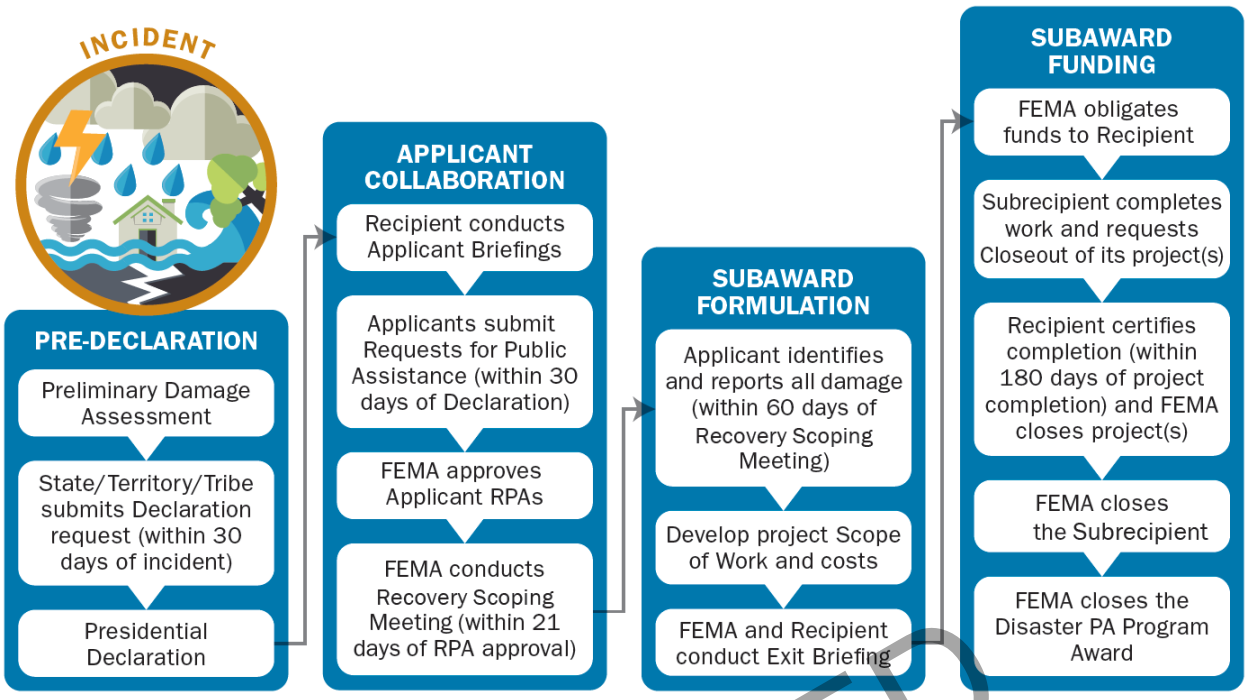

Figure 2. PA Program Implementation Process

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Title 2 of the Code of Federal Regulations (CFR) Part 200 provided new terms for Grantee and Subgrantee as follows:

- Recipient: A non-Federal entity that receives a Federal award directly from a Federal awarding agency to carry out an activity under a Federal program
- Applicant: A non-Federal entity submitting an application for assistance under the Recipient's Federal award
- Pass-through entity: A non-Federal entity that provides a subaward to an Applicant
- Subrecipient: An Applicant that receives a subaward from a pass-through entity

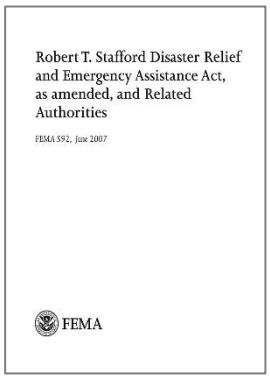
For simplicity, FEMA generally uses the term Applicant throughout this document when referring to the responsible entity for a project rather than making distinctions between an entity as an Applicant, Recipient, pass-through entity, or Subrecipient.

Appendices

This document includes several appendices, most of which are related to specific types of work and are referenced throughout Chapter 2. Of specific note are Appendices A, D, and K.

- Appendix A, Environmental and Historic Preservation Compliance, provides summaries of various Federal environmental and historic preservation laws that entities need to consider prior to conducting work.
- Appendix D, Debris Management Plan Job Aid, is a tool to assist entities with establishing written procedures for managing debris in an expeditious, efficient, and environmentally sound manner.
- Appendix K, Work Eligibility Considerations by Type of Facility, provides a summary of eligibility considerations by facility type.

CHAPTER 1: OVERVIEW


Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended, and Related Authorities

FEMA 592, June 2007

FEMA

The Robert T. Stafford Disaster Relief and Emergency Assistance Act, as Amended (Stafford Act), Title 42 of the United States Code (U.S.C.) § 5121 et seq.,[1] authorizes the President to provide Federal assistance when the magnitude of an incident or threatened incident exceeds the affected State,[2] Territorial,[3] Indian Tribal,[4] and local[5] government capabilities to respond or recover.

I. Presidential Declarations

When a State, Territorial, or Indian Tribal Government determines that an incident may exceed State, Territorial, Indian Tribal, and local government capabilities to respond, it requests a joint Preliminary Damage Assessment (PDA) with the Federal Emergency Management Agency (FEMA).[6] Federal, State, Territorial, Indian Tribal, local government, and certain private nonprofit (PNP) organization officials work together to estimate and document the impact and magnitude of the incident.[7]

The Governor[8] or Indian Tribal Chief Executive[9] must request a declaration from the President through FEMA within 30 days of the incident.[10] FEMA may extend the deadline if the Governor or Indian Tribal Chief Executive submits a written time extension request within 30 days of the incident stipulating the reason for the delay.[11]

For FEMA to provide assistance, the President must declare that an emergency or major disaster exists. The declaration[12] establishes the:

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[1] See http://www.fema.gov/robert-t-stafford-disaster-relief-and-emergency-assistance-act-public-law-93-288-amended.

[2] Robert T. Stafford Disaster Relief and Emergency Assistance Act, as Amended (Stafford Act) § 102(4), 42 United States Code (U.S.C.) § 5122 and Title 44 of the Code of Federal Regulations (CFR) § 206.2(a)(22), State governments include the District of Columbia, American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, Puerto Rico, and the U.S. Virgin Islands.

[3] Territories are included in the definition of a State and are also listed separately throughout this document. FEMA Public Assistance (PA) requirements are the same for States and Territories.

[4] Stafford Act § 102(6), Title 42 of the U.S.C. § 5122, and 44 CFR § 206.201(i), An Indian Tribal Government is any Indian or Alaska Native tribe, band, nation, pueblo, village, or community listed as an Indian Tribe under the Federally Recognized Indian Tribe List Act of 1994.

[5] Stafford Act § 102(8), 42 U.S.C. § 5122; and 44 CFR § 206.2(a)(16), local governments include counties, municipalities, cities, towns, townships, local public authorities, school districts, special districts established under State law, intrastate districts, councils of governments (regardless of whether the council of governments is incorporated as a nonprofit corporation under State law), regional or interstate government entities, agencies or instrumentalities of a local government; State-recognized Tribes; and rural communities, unincorporated towns or villages, or other public entities, for which an application for assistance is made by a State or political subdivision of a State.

[6] 44 CFR § 206.33(a).

[7] 44 CFR § 206.33(b).

[8] Stafford Act § 102(5), 42 U.S.C. § 5122, and 44 CFR § 206.2(12).

[9] Stafford Act § 102(12), 42 U.S.C. § 5122.

[10] Stafford Act § 401, 42 U.S.C. § 5170; Stafford Act § 501, 42 U.S.C. § 5191; and 44 CFR §§ 206.35 and 206.36.

[11] 44 CFR §§ 206.35(a) and 206.36(a).

[12] Each Presidential declaration is available at http://www.fema.gov/disaster.

- Federal cost share
- Type of incident
- Incident period
- Designated areas
- Types of assistance
- Federal Coordinating Officer (FCO)

A. Type of Incident

The declaration designates the type of incident (e.g., hurricane, tsunami, or earthquake). For Emergency Declarations, an incident is any instance that the President determines warrants supplemental emergency assistance to save lives and protect property and public health and safety, or to lessen or avert the threat of a catastrophe.[13] For Major Disaster Declarations, an incident is any natural catastrophe (including any hurricane, tornado, storm, high water, wind driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, or drought), or, regardless of cause, any fire, flood, or explosion.[14] Major Disaster Declarations may include a combination of incident types, such as storms and landslides.

B. Incident Period

The declaration designates the incident period. The incident period is the span of time during which the federally declared incident occurs.[15] This period varies in length, depending on the incident.

C. Designated Areas

The declaration designates which areas (e.g., county, parish, city, or Indian Tribal Government) are eligible to receive Federal assistance.[16] FEMA may add additional areas after the initial designation. However, for FEMA to consider adding an additional area, the Governor or Governor's Authorized Representative (GAR)[17] or, for Indian Tribal declarations, the Indian Tribal Chief Executive or Indian Tribal Authorized Representative (TAR) must request the addition within 30 days of the declaration date or the end of the incident period, whichever is later.[18] FEMA may extend the deadline if the Governor, GAR, Indian Tribal Chief Executive, or TAR submits a written time extension request within the 30-day deadline with justification of the inability to meet the deadline.[19]

D. Types of Assistance

The declaration designates the types of Federal assistance authorized.[20] The President may authorize assistance to individuals, households, and State, Territorial, Indian Tribal, and local governments, and certain types of PNP organizations. FEMA provides assistance to individuals

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[13] Stafford Act § 102(1), 42 U.S.C. § 5122, and 44 CFR § 206.2(a)(9).
[14] Stafford Act § 102(2), 42 U.S.C. § 5122, and 44 CFR § 206.2(a)(17).
[15] 44 CFR § 206.32(f).
[16] 44 CFR §§ 206.2(6) and 206.40(b).
[17] 44 CFR §§ 206.2(a)(13) and 206.41(d).
[18] 44 CFR § 206.40(c).
[19] 44 CFR § 206.40(d).
[20] 44 CFR § 206.40(a).

and households via its Individual Assistance (IA) programs. FEMA provides assistance to State, Territorial, Indian Tribal, and local governments and certain types of PNP organizations via its Public Assistance (PA) Program. The type of assistance available may vary among designated areas. FEMA may add additional types of assistance after the declaration. However, for FEMA to consider adding additional types of assistance, the Governor or GAR or, for Indian Tribal declarations, the Indian Tribal Chief Executive or TAR must request the assistance within 30 days of the declaration date or the end of the incident period, whichever is later.[21] FEMA may extend the deadline if the Governor, GAR, Indian Tribal Chief Executive, or TAR submits a written time extension request within the 30-day deadline with justification of the inability to meet the deadline.[22]

Required Forms

The declared State, Territorial, and/or Indian Tribal Government must submit an Application for Federal Assistance (SF-424) and Assurances (SF 424-D) before FEMA provides assistance. FEMA provides PA funds via the U.S. Department of Health and Human Services (HHS) Payment Management System (SmartLink). Therefore, if the President issues a declaration for an Indian Tribal Government for the first time, the Tribal Government must also submit a Payment Management System Access Form and a Direct Deposit Form (SF-1199A) to obtain a FEMA-specific SmartLink account before FEMA can provide funding. These 2 forms are available at https://pms.psc.gov/.

FEMA Regional Administrators (RAs)[23] have the authority to issue Fire Management Assistance Grant (FMAG) declarations for wildfires that threaten such destruction that would constitute a major disaster.[24] The FMAG Program is separate and distinct from the PA Program. FMAG declaration criteria, eligibility, and other program information are available at Title 44 of the Code of Federal Regulations (CFR)[25] Part 204, Fire Management Assistance Grant Program, and in FEMA's *Fire Management Assistance Grant Program Guide* (FEMA P-954).[26]

If significant damage occurs as a result of one or more FMAG fire incidents, the Governor or Indian Tribal Chief Executive may subsequently request a Major Disaster Declaration for the fire incident(s). FEMA will evaluate such requests based on damage and costs not covered under the FMAG Program, such as public infrastructure damage. If the President declares a Major Disaster and authorizes the PA Program, FEMA generally funds all of the costs related to those fire incidents under the PA Program for efficiency in administration of assistance and to avoid a duplication of benefits between programs.

E. Federal Cost Share

The assistance FEMA provides through its PA Program is subject to a cost share.[27] The Federal share is not less than 75 percent of the eligible costs.[28] Although the Federal share is usually 75

[21] 44 CFR § 206.40(c).
[22] 44 CFR § 206.40(d).
[23] 44 CFR § 206.2(a)(21).
[24] Stafford Act § 420, 42 U.S.C. § 5187, and 44 CFR Part 204.
[25] See http://www.ecfr.gov.
[26] http://www.fema.gov/media-library/assets/documents/92379.
[27] 44 CFR § 206.203(b).
[28] Stafford Act §§ 403(b), 406(b), 407(d), and 503(a), 42 U.S.C. §§ 5170b, 5172, 5173, 5193; and 44 CFR §§ 206.47(a) and 206.65.

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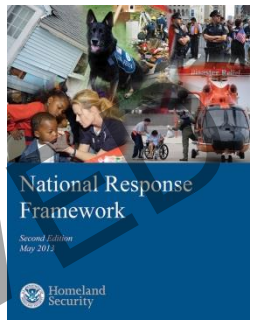
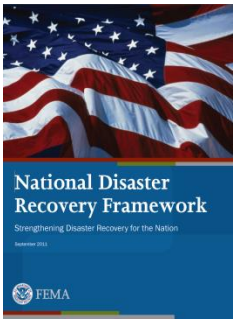
percent, if actual Federal obligations, excluding administrative costs, meet or exceed a qualifying threshold, FEMA may recommend an increase up to 90 percent.[29] The Federal cost share for Emergency Work may be increased in limited circumstances if warranted.[30]

F. FEMA-State/Territory/Tribe Agreement

After every declaration, the applicable State, Territorial, or Indian Tribal Government enters into an agreement with FEMA regarding the understanding, commitments, and conditions under which FEMA will provide assistance (FEMA-State/Territory/Tribe Agreement). FEMA and the Governor or Indian Tribal Chief Executive must sign this agreement before FEMA provides assistance. If necessary, because of exigent circumstances, FEMA may authorize essential emergency services or housing assistance under the Individuals and Households Program (IHP) while the agreement is in process for signature.[31]

G. Federal, State, Territorial, Indian Tribal, and Local Government Coordination





The *National Response Framework*[32] and *National Disaster Recovery Framework*[33] detail Federal, State, Territorial, Indian Tribal, and local government roles and responsibilities during response and recovery operations.

The declaration identifies the FCO.[34] The FCO works in partnership with the State Coordinating Officer[35] and GAR (or for Indian Tribal declarations, the Indian Tribal Coordinating Officer and TAR) to coordinate Federal resources and disaster assistance programs.[36] FEMA and the State, Territorial, or Indian Tribal Government may initially operate at Emergency Operations Centers (EOCs) and, when warranted, subsequently establish a Joint Field Office (JFO) for Federal, State, Territorial, and Indian Tribal government coordination and administrative activities.

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[29] 44 CFR § 206.47(b).
[30] 44 CFR § 206.47(d).
[31] 44 CFR § 206.44(a).
[32] http://www.fema.gov/national-response-framework.
[33] http://www.fema.gov/national-disaster-recovery-framework.
[34] Stafford Act §§ 302(a) and (d), 42 U.S.C. § 5143; 44 CFR §§ 206.2(a)(11) and 206.41(a).
[35] Stafford Act § 302(c), 42 U.S.C. § 5143, and 44 CFR §§ 206.2(a)(23) and 206.41(c).
[36] Stafford Act § 302(b), 42 U.S.C. § 5143, and 44 CFR § 206.42.

FEMA uses the following terms provided in 2 CFR when discussing PA funding:

- Recipient: A non-Federal entity that receives a Federal award[37] directly from a Federal awarding agency to carry out an activity under a Federal program[38]
- Applicant: A non-Federal entity submitting an application to the Recipient for assistance under the Recipient's Federal award
- Pass-through entity: A non-Federal entity that provides a subaward[39] to an Applicant to carry out part of a Federal program[40]
- Subrecipient: An Applicant that receives a subaward from a pass-through entity to carry out part of a Federal program[41]

Use of the Term Applicant in this Document

When a non-Federal entity applies for PA funding, it is an **Applicant**. Once an Applicant receives funding, it is either a **Recipient/pass-through entity** or a **Subrecipient**. For simplicity, FEMA uses the term Applicant throughout this document when referring to the responsible entity for a project rather than making distinctions between an entity as an Applicant, Recipient, pass-through entity, or Subrecipient. FEMA uses the terms Recipient and Subrecipient in this document when necessary to differentiate between the two entities.

FEMA provides PA funding to the applicable State, Territorial, or Indian Tribal Government (Recipient). An Indian Tribal Government may elect to be a Subrecipient under a State declaration or request its own declaration and be a Recipient.[42] The Recipient distributes the funds to the appropriate Subrecipient.[43] When a Recipient distributes funds, it is a pass-through entity.

FEMA may approve a State or Tribal Recipient to manage small disasters. Participation in the State Management of Small Disasters program is voluntary. Small disasters are those with sufficient severity and magnitude to warrant a major disaster declaration by the President, but are limited in scope and size as defined by the following:

- Statewide infrastructure damage is less than $2 per capita;
- Total estimated infrastructure damage is less than $15 million;
- Categories of work are limited to debris removal and emergency protective measures; or
- The PA operation is within a Recipient's capability to manage (varies by State).

If a Recipient is interested in managing a disaster, it must specify this in the request for a disaster declaration. FEMA will determine whether the Recipient is capable of managing a disaster.

Interested Recipients should have:

- Recent disaster experience;

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[37] Per 2 CFR § 200.38, a Federal award is the Federal financial assistance that a non-Federal entity receives directly from a Federal awarding agency or indirectly from a pass-through entity; or the cost-reimbursement contract under the Federal Acquisition Regulation that a non-Federal entity receives directly from a Federal awarding agency or indirectly from a pass-through entity.
[38] 2 CFR § 200.86.
[39] Per 2 CFR § 200.92, a subaward is an award provided by a pass-through entity to a Subrecipient for the Subrecipient to carry out part of a Federal award received by the pass-through entity. It does not include payments to a contractor or payments to an individual that is a beneficiary of a Federal program.
[40] 2 CFR § 200.74.
[41] 2 CFR § 200.93.
[42] 44 CFR § 206.201(e).
[43] 44 CFR § 206.202(a).

- Adequate staff;
- A State or Tribal Management Addendum to the Administrative Plan;
- A fiscal accounting system that can track specific projects, prepare for and undergo audit, and be used to evaluate appeals; and
- An established record of having met deadlines for grant management activities.

H. Correspondence

Throughout this document, FEMA notes specific instances in which the Applicant needs to submit written correspondence to obtain FEMA approval. The Applicant needs to submit all written correspondence through the Recipient.[44] The Recipient will forward the correspondence to FEMA with its recommendation. The RA has the authority to respond to all written correspondence unless otherwise noted. The RA delegates this authority to the FCO upon a Presidential declaration. The RA or FCO may further delegate authorities as appropriate. FEMA provides its response to the Recipient, which subsequently forwards FEMA's determination to the Applicant. In general, the Recipient addresses all correspondence to the FCO while the JFO is active and to the RA upon closure of the JFO when the FEMA Regional Office assumes responsibility for that incident. See Figure 3 for the geographical responsibilities of each FEMA Region.

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Figure 3. Map of FEMA Regions

II. Public Assistance Program Authorities

The mission of FEMA's PA Program is to provide assistance to State, Territorial, Indian Tribal, and local governments, and certain types of PNP organizations so that communities can quickly

[44] A Recipient is a non-Federal entity that receives a Federal award directly from a Federal awarding agency to carry out an activity under a Federal program.

respond to and recover from major disasters or emergencies declared by the President. Through the PA Program, FEMA provides supplemental Federal disaster grant assistance for debris removal, emergency protective measures, and the restoration of disaster-damaged, publicly owned facilities and the facilities of certain PNP organizations. The PA Program also encourages protection of these damaged facilities from future events by providing assistance for hazard mitigation measures.

FEMA provides this assistance based on authority in statutes, executive orders (EOs), regulations, and policies. If an entity does not comply with all applicable statutes, EOs, regulations, and policies, FEMA may take one of several actions including disallowing all or part of the cost of the project not in compliance.[45]

A. Statutes

Statutes are Federal laws passed by U.S. Congress and signed by the President. All PA Program assistance must comply with all applicable statutes.[46] The statute that authorizes FEMA to provide assistance via the PA Program is the Stafford Act. The following sections of the Stafford Act specifically authorize the assistance FEMA provides under the PA Program:

- Title I – Findings, Declarations and Definitions
- Title III – Major Disaster and Emergency Assistance Administration
  - 311, Insurance
  - 312, Duplication of Benefits
  - 324, Management Costs
- Title IV – Major Disaster Assistance Programs (applies to Major Disaster Declarations)
  - 403, Essential Assistance
  - 406, Repair, Restoration, and Replacement of Damaged Facilities
  - 407, Debris Removal
  - 428, Public Assistance Program Alternative Procedures

  Section 428 of the Stafford Act authorizes FEMA to provide specific exceptions, or "Alternative Procedures," to PA Program regulations.[47] FEMA is currently implementing these Alternative Procedures via pilot programs. These pilot programs are available to each Applicant on a voluntary basis. The specific alternatives are presented throughout this document, where applicable.
- Title V – Emergency Assistance Programs (applies to Emergency Declarations)
  - 502, Federal Emergency Assistance
- Title VII – Miscellaneous
  - 705, Disaster Grant Closeout Procedures

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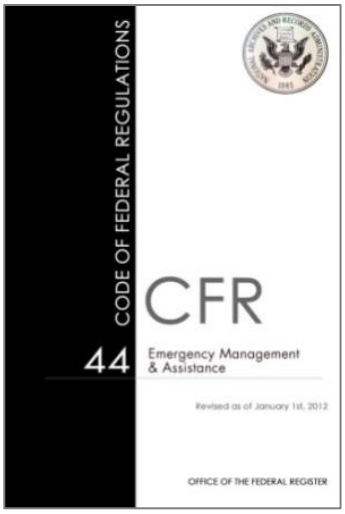
[45] 2 CFR § 200.338.
[46] 44 CFR § 206.200(b).
[47] Stafford Act § 428, 42 U.S.C. § 5189f.

B. Regulations



Regulations are Federal rules with the force and effect of law that implement a statute based on a Federal agency's interpretation of that statute.[48] FEMA and any entity receiving PA assistance must comply with all applicable Federal Regulations.[49]

FEMA publishes PA Program rules in the following parts of 44 CFR:[50]

- Part 206 Subpart G, Public Assistance Project Administration;
- Part 206 Subpart H, Public Assistance Eligibility;
- Part 206 Subpart I, Public Assistance Insurance Requirements; and
- Part 207, Management Costs.

The Office of Management and Budget establishes regulations regarding administrative requirements, cost principles, and audit requirements in 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.[51]

C. Environmental and Historic Preservation Requirements

Several statutes, EOs, and regulations establish requirements to protect the environment and preserve the Nation's historic and prehistoric resources. FEMA must review each PA project to ensure the work complies with applicable Federal environmental and historic preservation (EHP) laws and their implementing regulations, and applicable EOs.[52] The Applicant is responsible for complying with applicable Federal, State, Territorial, or Tribal EHP laws even if FEMA is not providing PA funding for all of the work. See Appendix A: Environmental and Historic Preservation Compliance for a description of applicable EHP statutes, EOs, and regulations.

D. Public Assistance Policy

FEMA issues policy to articulate the Agency's intent and direction in applying statutory and regulatory authority to guide decision-making, achieve desired outcomes, and ensure consistent implementation of programs across the Nation. FEMA generally publishes proposed PA policy language in the *Federal Register* for public comment prior to publishing in this document.[53] PA policy is included in Chapter 2 of this document. This document also references other FEMA policies that apply to both the PA Program and other FEMA programs. FEMA will conduct a comprehensive review of this publication no less than every 3 years.

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[48] Stafford Act § 321, 42 U.S.C. § 5164.
[49] 44 CFR § 206.200(b).
[50] Stafford Act § 325, 42 U.S.C. § 5165c, and 44 CFR § 1.4.
[51] 2 CFR § 200.101.
[52] 2 CFR § 200.300.
[53] FEMA is required to publish policies for comment if they are deemed "significant" by the Office of Management and Budget, pursuant to the Final Bulletin on Agency Good Guidance Practices, 72 *Fed. Reg.* 3432 (Jan. 25, 2007) and when the policy reduces assistance, pursuant to Stafford Act § 325, 42 U.S.C. § 5165, Public Notice, Comment, and Consultation Requirements.

CHAPTER 2: PUBLIC ASSISTANCE POLICY

This chapter discusses the eligibility criteria for Public Assistance (PA) funding and provides comprehensive PA policy to use when evaluating eligibility.

I. General Public Assistance Eligibility

The four basic components of eligibility are:

- Applicant
- Facility
- Work
- Cost

Figure 4. Eligibility Pyramid

FEMA refers to these components as the building blocks of an eligibility pyramid. Generally, FEMA must determine each building block eligible, starting at the foundation (Applicant) and working up to cost at the top of the pyramid (Figure 4). There are two exceptions to the standard eligibility pyramid. For private nonprofits (PNPs), FEMA must determine whether the PNP owns or operates an eligible facility in order to determine whether the Applicant is eligible (see Chapter 2:II.D. for additional information and a pyramid specific to PNP eligibility). Secondly, for State, Territorial, Tribal, and local government Applicants, evaluating facility eligibility is not a necessary step for most Emergency Work, as described in Chapter 2:VI.

The Applicant is responsible for providing documentation to support that each component is eligible. FEMA accepts a variety of documentation to substantiate eligibility. Chapter 3 provides lists of recommended documentation. In some cases, FEMA requires specific documentation to support eligibility. FEMA specifies these requirements in this chapter, where applicable.

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II. Applicant Eligibility

FEMA provides assistance to eligible Applicants, which are defined below.[54] As shown in Figure 5, FEMA must first determine whether an Applicant is eligible before evaluating the Applicant's claim.

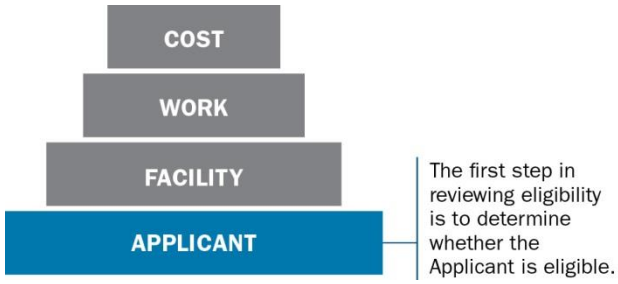

Figure 5. Applicant Eligibility

A. State and Territorial Governments

State and Territorial governments, including the District of Columbia, American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, Puerto Rico, and the U.S. Virgin Islands, are eligible Applicants.[55]

[54] 44 CFR § 206.222.
[55] Stafford Act § 102(4), 42 U.S.C. § 5122; 44 CFR §§ 206.2(a)(22) and 206.222(a); and 2 CFR § 200.90.

B. Indian Tribal Governments

Federally recognized Indian Tribal Governments, including Alaska Native villages and organizations (hereinafter referred to as "Tribal Governments"), are eligible Applicants. Alaska Native Corporations are not eligible as they are privately owned.[56]

C. Local Governments

The following types of local governments are eligible Applicants:[57]

- Counties and parishes
- Municipalities, cities, towns, boroughs, and townships
- Local public authorities
- School districts
- Intrastate districts
- Councils of governments (regardless of whether incorporated as nonprofit corporations under State law)
- Regional and interstate government entities
- Agencies or instrumentalities of local governments
- State-recognized Tribes
- Special districts established under State law
    - Community Development Districts are special districts that finance, plan, establish, acquire, construct or reconstruct, operate, and maintain systems, facilities, and basic infrastructure within their respective jurisdictions. To be eligible, a Community Development District must be legally responsible for ownership, maintenance, and operation of an eligible facility that is accessible to the general public.

The State or a political subdivision of the State may submit applications on behalf of rural communities, unincorporated towns or villages, and other public entities not listed above.[58]

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D. Private Nonprofit Organizations

Only certain PNPs are eligible Applicants. To be an eligible PNP Applicant, the PNP must show that it has:

- A current ruling letter from the U.S. Internal Revenue Service granting tax exemption under sections 501(c), (d), or (e) of the Internal Revenue Code of 1954; or

Figure 6. PNP Eligibility

[56] Stafford Act § 102(6), 42 U.S.C. § 5122; 44 CFR §§ 206.201(i) and 206.222(c); and 2 CFR § 200.54.
[57] Stafford Act § 102(8), 42 U.S.C. § 5122; 44 CFR §§ 206.2(a)(16) and 206.222(a); and 2 CFR § 200.64.
[58] Stafford Act § 102(8)(c), 42 U.S.C. § 5122, and 44 CFR § 206.2(a)(16)(iii).

- Documentation from the State substantiating it is a non-revenue producing, nonprofit entity organized or doing business under State law.[59]

Additionally, as shown in Figure 6, prior to determining whether the PNP is eligible, FEMA must first determine whether the PNP owns or operates an eligible facility.[60] For PNPs, an eligible facility is one that provides an eligible service as listed below:

- A facility that provides a critical service, which is defined as education, utility, emergency, or medical (see Table 1);[61] or
- A facility that provides a non-critical, but essential social service AND provides those services to the general public (see Table 2).[62] PNP facilities generally meet the requirement of serving the general public if ALL of the following conditions are met:
  - Facility use is not limited to any of the following:
    - A certain number of individuals;
    - A defined group of individuals who have a financial interest in the facility, such as a condominium association;
    - Certain classes of individuals; or
    - An unreasonably restrictive geographical area, such as a neighborhood within a community;
  - Facility access is not prohibited with gates or other security systems; and
  - Any membership fees meet all of the following criteria:
    - Are nominal;
    - Are waived when an individual can show inability to pay the fee;
    - Are not of such magnitude to preclude use by a significant portion of the community; and
    - Do not exceed what is appropriate based on other facilities used for similar services.
- Certain types of facilities, such as senior centers, that restrict access in a manner clearly related to the nature of the facility, are still considered to provide essential social services to the general public.[63]

In cases where the facility provides multiple services, such as a community center, FEMA reviews additional items to determine the primary service that facility provides, such as:

- U.S. Internal Revenue Service documentation
- Pre-disaster charter, bylaws, and amendments
- Evidence of longstanding, routine (day-to-day) use (e.g., a calendar of activities)

Facilities established or primarily used for political, athletic, recreational, vocational, or academic training, conferences, or similar activities are not eligible (see Table 3).

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[59] 44 CFR § 206.221(f).
[60] 44 CFR § 206.222(b).
[61] Stafford Act § 406(a)(3)(B), 42 U.S.C. § 5172, and 44 CFR § 206.221(e).
[62] 44 CFR § 206.221(e)(7).
[63] As amended by the Bipartisan Budget Act of 2018, Stafford Act sections 102(11)(B) and 406(a)(3)(C) make clear that an organization operating houses of worship that limits leadership or membership to persons who share a religious faith or practice still provides essential social services to the general public.

Table 1. PNP Eligible Critical Services

PNP ELIGIBLE CRITICAL SERVICES

EDUCATION

- Primary or secondary education as determined under State law and provided in a day or residential school, including parochial schools, OR
- Higher-education institutions that meet all of the following criteria:
  - Admit students or persons having a high school diploma or equivalent;
  - Are legally authorized to provide education beyond a secondary level;
  - Award a bachelor's degree or a 2-year degree that is acceptable as full credit toward a bachelor's degree or provides at least a 1-year training program to prepare students for gainful employment in a recognized occupation; and
  - Are accredited by a nationally recognized agency or association (as determined by the Secretary of Education).
- Educational facilities that meet the above criteria are eligible without regard to their religious character or use for religious instruction

MEDICAL

- Emergency medical care (diagnosis or treatment of mental or physical injury or disease) provided in:
  - Clinics
  - Facilities that provide in-patient care for convalescent or chronic disease patients
  - Hospices and nursing homes
  - Hospitals and related facilities, including:
    - Central service facilities operated in connection with hospitals
    - Extended-care facilities
    - Facilities related to programs for home-health services
    - Laboratories
    - Self-care units
    - Storage, administration, and record areas
  - Long-term care facilities
  - Outpatient facilities
  - Rehabilitation centers that provide medical care

UTILITY

- Communications transmission and switching, and distribution of telecommunications traffic
- Electric power generation, transmission, and distribution.
- Irrigation to provide water for drinking water supply, fire suppression, or electricity generation
- Sewer and wastewater collection, transmission, and treatment
- Water treatment, transmission, and distribution by a water company supplying municipal water

EMERGENCY SERVICES

- Ambulance
- Fire protection
- Rescue

Administrative and support buildings essential to the operation of PNP critical services are eligible facilities.

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Table 2. PNP Eligible Non-critical, Essential Social-Type Services

PNP ELIGIBLE NON CRITICAL, ESSENTIAL SOCIAL TYPE SERVICES

Community centers established and primarily used for the purpose of offering the following services (or similar) to the community at large:

- Art services authorized by a State, Territorial, Tribal, or local government, including, but not limited to:
  - Arts administration
  - Art classes
  - Management of public arts festivals
  - Performing arts classes
- Educational enrichment activities that are not vocational, academic, or professional training; examples include hobby or at-home pursuits, such as:
  - Car care
  - Ceramics
  - Gardening
  - Personal financial and tax planning
  - Sewing
  - Stamp and coin collecting
- Multi-purpose arts programming
- Senior citizen projects, rehabilitation programs, community clean-up projects, blood drives, local government meetings, and similar activities
- Services and activities intended to serve a specific group of individuals (e.g., women, African Americans, or teenagers) provided the facility is otherwise available to the public on a non-discriminatory basis
- Social activities to pursue items of mutual interest or concern, such as:
  - Community board meetings
  - Neighborhood barbecues
  - Various social functions of community groups
  - Youth and senior citizen group meetings
- Youth and senior citizen group meetings
- Activities of community centers that serve the general public

Facilities that do not provide medical care, but do provide:

- Alcohol and drug treatment
- Assisted living
- Custodial care, even if the facility is not open to the general public (including essential administration and support facilities)
- Rehabilitation
- Child care
- Day care for individuals with disabilities or access and functional needs (for example, those with Alzheimer's disease, autism, muscular dystrophy)
- Food assistance programs
- Health and safety services
- Homeless shelters
- Houses of worship
- Libraries
- Low-income housing (as defined by Federal, State, Territorial, Tribal, or local law or regulation)
- Museums:
  - Constructed, manufactured, or converted with a primary purpose of preserving and exhibiting a documented collection of artistic, historic, scientific, or other objects
  - Buildings, associated facilities, fixed facilities, and equipment primarily used for the preservation or exhibition of the collection, including:
    - Permanent infrastructure, such as walkways and driveways of outdoor museum-type exhibition areas
    - Historic buildings, such as barns and other outbuildings, intended for the preservation and exhibition of historical artifacts within a defined area
    - Permanent facilities and equipment that are part of arboretums and botanical gardens
    - Infrastructure, such as utilities, and administrative facilities necessary for support
  - The grounds at museums and historic sites are not eligible.
  - Open natural areas/features or entities that promote the preservation/conservation of such areas are not eligible.
- Residential and other services for battered spouses
- Residential services for individuals with disabilities
- Senior citizen centers
- Shelter workshops that create products using the skills of individuals with disabilities
- Zoos
- Performing arts centers with a primary purpose of producing, facilitating, or presenting live performances, including:
  - Construction of production materials
  - Creation of artistic works or productions
  - Design
  - Professional training
  - Public education
  - Rehearsals
- Public broadcasting that monitors, receives, and distributes communication from the Emergency Alert System

With the exception of custodial care facilities and museums, administrative and support buildings essential to the operation of PNP non-critical services are NOT eligible facilities.

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Table 3. PNP Ineligible Services

PNP INELIGIBLE SERVICES	
COMMUNITY CENTER SERVICES • Training individuals to pursue the same activities as full-time paying careers (for example, vocational, academic, or professional training) • Meetings or activities for only a brief period, or at irregular intervals	**OTHER COMMUNITY SERVICES** • Advocacy or lobbying groups not directly providing health services • Cemeteries • Conferences • Day care services not included in previous table of eligible services • Irrigation solely for agricultural purposes[64] • Job counseling • Property owner associations with facilities such as roads and recreational facilities (except those facilities that could be classified as utilities or emergency facilities) • Public housing, other than low-income housing • Recreation • Parking not in direct support of eligible facility
EDUCATION • Athletic, vocational, academic training, or similar activities • Political education	

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III. Facility Eligibility

In general a facility must be determined eligible in order for work to be eligible. There are exceptions for some emergency work activities as shown in Figure 7 and discussed in Chapter 2:VI.

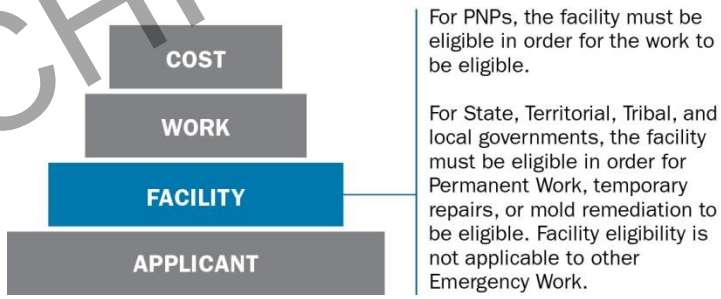

Figure 7. Facility Eligibility

A facility is a building, works, system, or equipment, built or manufactured, or an improved and maintained natural feature.[65]

An example of a system that qualifies as a facility is a water distribution system. Mechanical, electrical, plumbing, and other systems that are components of a facility in which they operate are considered part of that facility.

A natural feature is improved and maintained if it meets all of the following conditions:

- The natural feature has a designed and constructed improvement to its natural characteristics, such as a terraced slope or realigned channel
- The constructed improvement enhances the function of the unimproved natural feature

[64] 44 CFR § 206.221(e)(3).
[65] 44 CFR § 206.201(c).

- The Applicant maintains the improvement on a regular schedule to ensure that the improvement performs as designed

Only the section of a natural feature that meets the criteria above is eligible. For example, if only 150 linear feet of a natural channel bank is armored with rip rap and maintained, the eligible facility would be limited to that 150-linear-foot section.

The following are not eligible facilities:

- Unimproved property (e.g., a hillside or slope, forest, natural channel bank)
- Land used for agricultural purposes[66]

A. Public Facility

An eligible public facility is one that a State, Territorial, Tribal, or local government owns or has legal responsibility for maintaining, including any:

- Flood control, navigation, irrigation, reclamation, public power, sewage treatment and collection, water supply and distribution, watershed development, or airport facility
- Non-Federal-aid street, road, or highway
- Other public building, structure, or system, including those used for educational, recreational, or cultural purposes
- Park[67]

When a facility maintained by a Community Development District[68] is not open to the general public or does not provide a service to the general public, the facility is not eligible.

B. Private Nonprofit Facility

An eligible PNP facility is one that provides educational, utility, emergency, medical, or custodial care, including for the aged or disabled, and other essential social-type services to the general public (further described in Tables 1 and 2).[69]

If a PNP operates multiple facilities, or a single facility composed of more than one building, FEMA must evaluate each building independently, even if all are located on the same grounds. Buildings that are part of a complex that includes outdoor facilities (e.g., swimming pools, athletic fields, or tennis courts) are not evaluated separately from the rest of the complex when determining eligibility of the building. For example, an outdoor pool usually has a building for bathrooms and controlling entry. In such cases, FEMA does not evaluate the building for eligibility separately because it is an intrinsic part of the pool complex.

See Appendix B: Private Nonprofit Facility Eligibility Examples, for various examples of PNP facilities and corresponding eligibility determinations.

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[66] Ibid.
[67] Stafford Act § 102(10), 42 U.S.C. § 5122, and 44 CFR § 206.221(h).
[68] Community Development Districts are special districts that finance, plan, establish, acquire, construct or reconstruct, operate, and maintain systems, facilities, and basic infrastructure within their respective jurisdictions.
[69] Stafford Act § 102(11), 42 U.S.C. § 5122, and 44 CFR § 206.221(e).

1. Mixed-Use Facility

PNP facilities that provide both eligible and ineligible services are considered mixed-use facilities. Eligibility of mixed-use PNP facilities is dependent on the *primary* use of the facility, which is determined by the amount of physical space dedicated to eligible and ineligible services. "Primary use" is the use for which *more* than 50 percent of the physical space in the facility is dedicated. FEMA evaluates the entire structure when determining primary use; it does not separately address individual areas, such as floors, basements, or wings. Common space, such as bathrooms, hallways, lobbies, closets, stairways, and elevators, is not included when calculating mixed-use space.

If FEMA determines that 50 percent or more of physical space is dedicated to ineligible services, the entire facility is ineligible. If the facility is eligible, FEMA prorates funding based on the percentage of physical space dedicated to eligible services. The Applicant is responsible for the balance of costs to restore the facility and must restore the entire facility to receive funding for repairs to the eligible-use portions of the facility.

Eligible PNP irrigation and eligible PNP public broadcasting facilities are exempt from primary use requirements.

(a) Mixed-Use Space

In cases where the same physical space is used for both eligible and ineligible services, the primary use is the use for which more than 50 percent of the operating time is dedicated in that shared physical space. If space is available for use, but the Applicant cannot support that it is used for eligible services for more than 50 of the percent of operating time, this criterion is not met.

If FEMA determines that 50 percent or more of the operating time in the shared physical space is dedicated to ineligible services, then FEMA does not include that physical space when evaluating primary use.

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(b) Use by Multiple Entities

In cases where a PNP Applicant shares use of a facility, in order to be eligible, the facility must be primarily owned by the PNP Applicant and meet the primary use requirement. FEMA prorates funding for these facilities based on the percentage of physical space that the Applicant owns and dedicates to eligible services. The following guidelines are used to determine the eligibility of such facilities:

- If the eligible PNP owns the entire facility and leases a portion of it to another entity, the facility is eligible provided that the PNP dedicates more than 50 percent of the facility for eligible services. If the PNP leases 50 percent or more of the facility to an ineligible Applicant, or for ineligible services, then the facility is ineligible.
- If the eligible PNP only owns a portion of the facility, it is eligible provided that the PNP owns more than 50 percent of the facility and dedicates more than 50 percent of physical space for eligible services.

2. Small Business Administration Loan Requirement

Following a Major Disaster Declaration, the U.S. Small Business Administration (SBA) can provide loans to individuals and businesses for facility restoration. For PNPs that provide non-

critical, essential social services, FEMA only provides PA funding for eligible Permanent Work costs that an SBA loan will not cover. Therefore, non-critical PNPs must also apply for a disaster loan from the SBA.[70] Possible outcomes are shown in Figure 8.

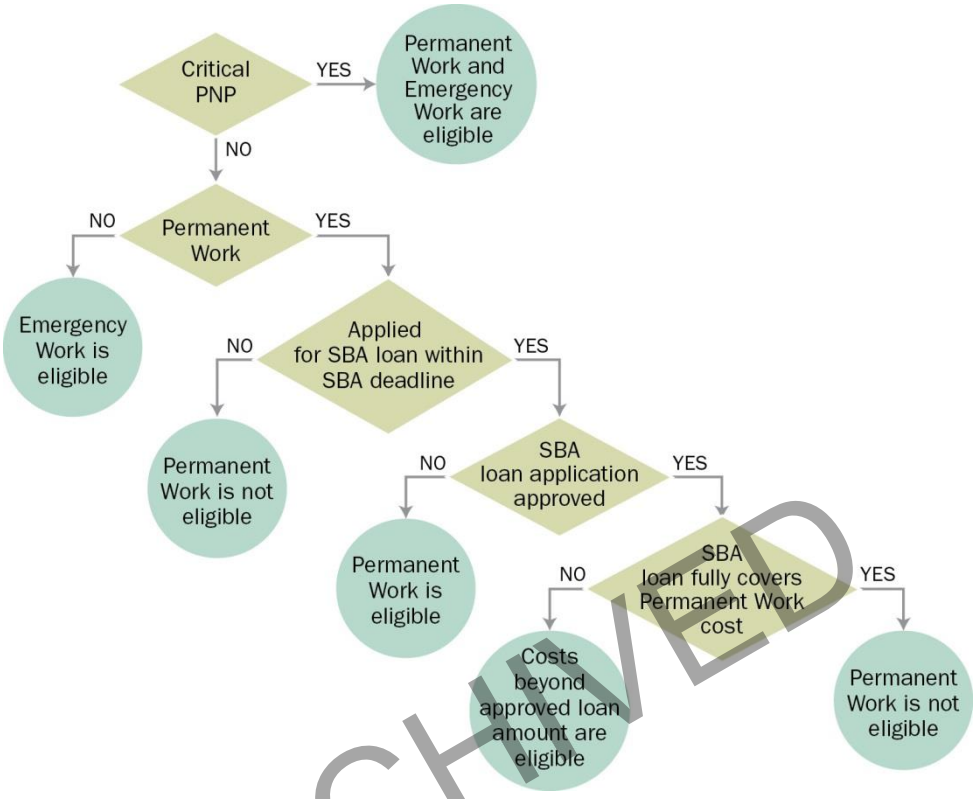

Figure 8. SBA Loan Outcomes

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PNPs that provide critical services can apply to FEMA without having to apply to SBA. If the eligible portion of a mixed-use facility provides critical services (or is partially used to provide critical services), the Applicant may apply for PA funding without also applying to SBA for a loan. If the eligible portion of a mixed-use facility is used to provide services that are entirely non-critical, the Applicant must also apply to SBA for a loan.

C. Facility under the Specific Authority of Other Federal Agencies

Other Federal agencies also have authority to provide assistance after disasters. If a facility is under the specific authority of another Federal agency, FEMA does not provide assistance to restore that facility even if that Federal agency does not provide funding to restore the facility.[71] Public Housing Authority facilities are eligible unless Congress appropriates funds to the U.S. Department of Housing and Urban Development (HUD) for emergency capital needs for that facility.

Additionally, other Federal agencies have authority to conduct specific work that may overlap with FEMA's authority. FEMA does not provide assistance for that work except in certain, limited circumstances as described in Chapter 2:VI.A.4(b).

[70] Stafford Act § 406(a)(3)(A)(ii), 42 U.S.C. § 5172, and 44 CFR § 206.226(c).
[71] 44 CFR § 206.226(a).

The Applicant should apply to the respective agency for assistance with a facility or work under that agency's authority.

D. Inactive or Partially Inactive Facility

To be eligible, a facility must have been in active use at the start of the incident period. Inactive facilities are not eligible, unless one of the following conditions is met:

- The facility was only temporarily inactive for repairs or remodeling (provided a contractor is not responsible for repair of disaster-related damage);
- The Applicant firmly established future active use in an approved budget; or
- The Applicant can clearly demonstrate its intent to begin use within a reasonable amount of time.[72]

The above criteria also apply to facilities that are partially inactive at the start of the incident period. Inactive portions are not eligible unless one of the exceptions noted above applies.

When eligible repairs benefit an area that was not in active use, FEMA prorates funding based on the percentage of the facility that was in active use. For example, if the roof of a partially used building is destroyed, FEMA limits the eligible cost to a prorated amount of the total cost to replace the roof based on the percentage of the building that was in active use.

For PNP facilities, more than 50 percent of the facility had to be in active use for an eligible purpose at the time of the incident in order for the facility to be eligible.

E. Facility Scheduled for Repair or Replacement

Facilities that are not yet under contract, but are scheduled for repair or replacement using non-Federal funds are eligible provided that the claimed damage did not exist prior to the incident (FEMA may review the bid and contract documents to validate). If damage existed prior to the incident, only the repair of damage caused by the incident is eligible.

A facility scheduled for replacement within 12 months of the start of the incident period using Federal funds is not eligible. In such a case, the Applicant should coordinate with the agency funding the project to expedite replacement, if possible.

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[72] 44 CFR § 206.226(k)(2).

IV. General Work Eligibility

Through the PA Program, FEMA provides:

- Grant funding for emergency protective measures and debris removal (Emergency Work)
- Grant funding for permanent restoration of damaged facilities, including cost-effective hazard mitigation to protect the facilities from future damage (Permanent Work)

Administrative Plan Requirement for PA funding

In accordance with 44 CFR § 206.207(b), State Administrative Plan, before FEMA provides PA funding for any project, a Recipient must have a FEMA-approved Administrative Plan that describes how it intends to administer the PA Program. A Recipient must submit its Administrative Plan to FEMA on an annual basis. For any new incident that occurs within the year, the Recipient must also submit amendments to its Administrative Plan to address specifics of the new incident.

A. Categories of Work

To facilitate the processing of PA funding, FEMA separates Emergency Work into two categories and Permanent Work into five categories based on general types of facilities. These categories are shown in Figure 9.

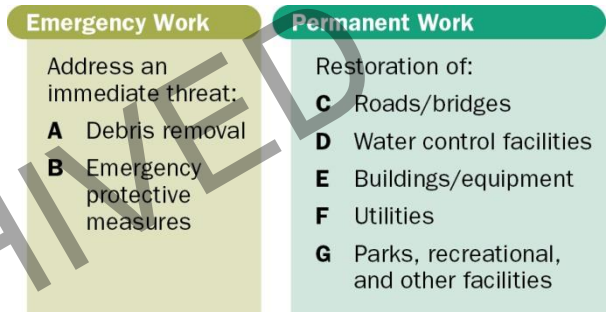

Figure 9. Categories of Work

B. Minimum Work Eligibility Criteria

At a minimum, work must meet each of the following three general criteria to be eligible:

- Be required as a result of the declared incident;
- Be located within the designated area, with the exception of sheltering and evacuation activities; and
- Be the legal responsibility of an eligible Applicant.[73]

1. Result of Declared Incident

The Applicant is responsible for showing that work is required:

- Due to an immediate threat resulting from the declared incident (for Emergency Work); or
- To address damage caused by the declared incident.

For debris removal, the Applicant must demonstrate that the debris causing an immediate threat was generated during the declared incident period and directly by declared incident.

For temporary repairs, mold remediation, and Permanent Work, the Applicant must demonstrate that damage was caused directly by the declared incident. FEMA does not provide PA funding for repair of damage caused by:

- Deterioration
- Deferred maintenance
- The Applicant's failure to take measures to protect a facility from further damage

[73] 44 CFR § 206.223(a).

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- Negligence[74]

2. Within Designated Area

To be eligible, work must be located in the designated area defined in the declaration (with the exception of sheltering and evacuation activities).[75] Emergency Work or Permanent Work performed on a facility located outside of the designated area is not eligible. This is true even if an eligible Applicant is legally responsible for the work, including work performed outside the designated area to protect a facility within the designated area.

Tribal Governments do not always have geographical boundaries and some have boundaries that cross State lines. Therefore, Tribal Government declarations do not usually define specific designated geographical areas. If a specific designated area is not defined in the declaration, FEMA determines eligibility based on legal responsibility and whether the work is directly related to the declared incident.

3. Legal Responsibility

To be eligible, work must be the legal responsibility of the Applicant requesting assistance.[76]

To determine legal responsibility for Emergency Work, FEMA evaluates whether the Applicant requesting the assistance either had jurisdiction over the area or the legal authority to conduct the work related to the request at the time of the incident.

To determine legal responsibility for facility restoration, FEMA evaluates whether the Applicant claiming the costs had legal responsibility for disaster-related restoration of the facility at the time of the incident based on ownership and the terms of any written agreements (such as for facilities under construction, leased facilities, and facilities owned by a Federal agency).

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(a) Facility Ownership

When an Applicant requests PA funding to restore a facility, it is the Applicant's responsibility to provide proof that it owns the facility. To determine ownership, FEMA may review deeds, title documents, and local government tax records.

Ownership of a facility is generally sufficient to establish the Applicant's legal responsibility to restore the facility, provided it is not under construction by a contractor or leased to another entity at the time of the incident.

(b) Facilities under Construction

If the facility is under construction by a contractor at the time of the incident, FEMA reviews the contract to determine whether the Applicant is legally responsible for the repair of damage caused by the incident.[77] At a minimum, FEMA evaluates the contract to determine if it:

- Identifies the contractor or owner as being responsible for disaster-related repairs;
- Requires a builder's risk policy for losses that occur while the contractor has control of the facility;

[74] 44 CFR § 206.223(e).
[75] 44 CFR § 206.223(a)(2).
[76] 44 CFR § 206.223(a)(3).
[77] Stafford Act § 406(e)(2), 42 U.S.C. § 5172.

- Has a Force Majeure provision, which is a clause that relieves the contractor from responsibility for damage beyond its reasonable control, such as natural disasters (often referred to "acts of God") or acts of war; or
- Has a provision that identifies the point at which the contractor transfers legal responsibility for the facility, or portions of the facility, back to the owner.

(c) Leased Facilities

An Applicant may own a facility and lease it to a tenant, or an Applicant may lease a facility owned by another party. In either case, FEMA reviews the lease agreement to determine legal responsibility for repair of damage caused by the incident. If the lease does not specify either party as responsible, FEMA considers the owner of the facility legally responsible for the costs to restore the facility.

If the lease is between two eligible Applicants, FEMA provides PA funding to the Applicant legally responsible for the restoration.

(d) Federal Facilities

Facilities owned and maintained by Federal agencies are not eligible. However, if a Federal agency constructed a facility and formally designated the Applicant as the legally responsible entity for facility operation, maintenance, and repairs, then the facility is eligible. FEMA reviews the agreement between the Federal agency and the Applicant to confirm the legally responsible entity.

(e) Jurisdiction over an Area

In general, an Applicant only has legal responsibility to conduct Emergency Work activities within its jurisdiction. If an Applicant conducts Emergency Work activities outside its jurisdiction, it must demonstrate its legal basis and responsibility to conduct those activities.

(f) Conducting Activities on Private Property

To determine whether a State, Territorial, Tribal, or local government has legal responsibility to conduct activities on private property, FEMA reviews the Applicant's legal basis and authority to conduct the activities.

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V. Cost Eligibility

The final component evaluated for eligibility, as shown in Figure 10, are the costs claimed by the Applicant. Not all costs incurred as a result of the incident are eligible. To be eligible, costs must be:

- Directly tied to the performance of eligible work;
- Adequately documented;[78]

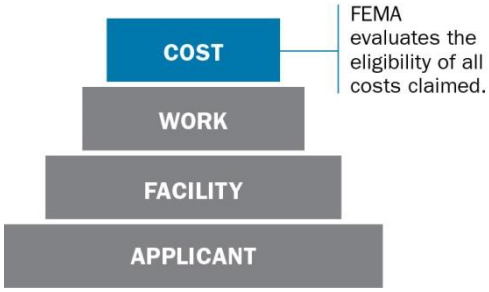

Figure 10. Cost Eligibility

[78] 2 CFR § 200.403(g).

- Reduced by all applicable credits, such as insurance proceeds and salvage values;[79]
- Authorized and not prohibited under Federal, State, Territorial, Tribal, or local government laws or regulations;
- Consistent with the Applicant's internal policies, regulations, and procedures that apply uniformly to both Federal awards and other activities of the Applicant; and
- Necessary and reasonable to accomplish the work properly and efficiently.[80]

A cost is reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the Applicant makes the decision to incur the cost.[81]

FEMA determines reasonableness by evaluating whether:

- The cost is of a type generally recognized as ordinary and necessary for the type of facility or work.[82]
- The cost is comparable to the current market price[83] for similar goods or services based on:
  - Historical documentation;
  - Average costs in the area; or
  - Published unit costs from national cost estimating databases.
- Any of the following factors caused escalation of costs:
  - Shortages in equipment, materials, supplies, labor, or contractors. When escalating costs are due to shortages, FEMA considers whether the Applicant's work continued beyond the period of shortages and whether there was an opportunity for the Applicant to obtain more reasonable pricing;
  - Project-specific complexities, such as environmental or historic issues, remote access or location, provision of a unique service with few providers, or elements requiring an extraordinary level of effort; or
  - The Applicant deviated from its established practices.[84]
- Exigent circumstances existed. If so, FEMA evaluates the length of time the circumstances existed compared to the length of time costs were incurred.
- The Applicant participated in ethical business practices, ensuring parties to a transaction are independent of each other, without familial ties or shared interests and on equal footing without one party having control of the other.[85]
- The Applicant complied with procurement requirements (see Chapter 2:V.G.).

The Applicant is responsible for providing documentation to demonstrate its claimed costs are reasonable. If FEMA determines any of the costs to be unreasonable based on its evaluation,

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[79] Stafford Act § 312, 42 U.S.C. § 5155, and 2 CFR § 200.406.
[80] 2 CFR § 200.403.
[81] 2 CFR § 200.404.
[82] 2 CFR § 200.404(a).
[83] 2 CFR § 200.404(c).
[84] 2 CFR § 200.404(e).
[85] 2 CFR § 200.404(b).

FEMA may disallow all or part of the costs by adjusting eligible funding to an amount it determines to be reasonable.

A. Applicant (Force Account) Labor

FEMA refers to the Applicant's personnel as "force account." FEMA reimburses force account labor based on actual hourly rates plus the cost of the employee's actual fringe benefits. FEMA calculates the fringe benefit cost based on a percentage of the hourly pay rate. Because certain items in a benefit package are not dependent on hours worked (e.g., health insurance), the percentage for overtime is usually different than the percentage for straight-time. Fringe benefits may include:

- Holiday leave
- Accrued vacation leave
- Sick leave
- Social security matching
- Medicare matching
- Unemployment insurance
- Workers compensation
- Retirement
- Health insurance
- Life and disability insurance
- Administrative leave

1. Labor Policies

FEMA determines the eligibility of overtime, premium pay, and compensatory time costs based on the Applicant's pre-disaster written labor policy, provided the policy:

- Does not include a contingency clause that payment is subject to Federal funding;
- Is applied uniformly regardless of a Presidential declaration; and
- Has set non-discretionary criteria for when the Applicant activates various pay types.

If these requirements are not met, FEMA limits PA funding to the Applicant's non-discretionary, uniformly applied pay rates.

All costs must be reasonable and equitable for the type of work being performed.

FEMA will determine whether the number of hours claimed are reasonable and necessary by evaluating:

- The severity of the incident;
- Whether the work was performed at a time when it was necessary to work extraordinary hours based on the circumstances of the incident;
- The function of the employee for which the hours are claimed; and
- The number of consecutive hours the employee worked.

2. Eligibility Criteria Based on Type of Employee and Work Performed

FEMA's criteria for reimbursing straight-time labor costs differ depending on the type of employee and whether that employee is performing Emergency Work or Permanent Work.

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For Permanent Work, both straight-time and overtime labor costs are eligible for both budgeted and unbudgeted employees.[86] For Emergency Work, only overtime labor is eligible for budgeted employees.[87] For unbudgeted employees performing Emergency Work, both straight-time and overtime labor are eligible. Figure 11 indicates different types of budgeted and unbudgeted employees.

Regular Time for Debris Removal Projects

- Alternative Procedures: Eligible
- Standard Program: Ineligible

Under the alternative procedures authorized by Section 428 of the Stafford Act, if the Applicant opts to participate in the straight-time procedure for debris removal, straight-time labor costs are eligible for budgeted employees conducting eligible debris removal (Category A) activities. See Chapter 2:VI.A.1(b) for further information.

Emergency Work Labor Eligibility		
Budgeted Employees	**Overtime**	**Straight-Time**
Permanent employee	☑	
Seasonal employee working during normal season of employment	☑	
Unbudgeted Employees	**Overtime**	**Straight-Time**
Essential employee called back from administrative leave	☑	☑
Permanent employee funded from external source	☑	☑
Temporary employee hired to perform eligible work	☑	☑
Seasonal employee working outside normal season of employment	☑	☑

Figure 11. Emergency Work Labor Eligibility

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Reassigned Employees

The Applicant may assign an employee to perform work that is not part of the employee's normal job. For example, a police officer may clear debris. FEMA provides PA funding based on the reassigned employee's normal pay rate, not the pay level appropriate to the work, because the Applicant's incurred cost is the employee's normal pay rate.

Straight-time of a permanent employee funded from an external source (such as a grant from a Federal agency or statutorily dedicated funds) is eligible if the employee is reassigned to perform eligible Emergency Work that the external source does not fund. FEMA must confirm that no duplication of funding exists prior to approval.

Backfill Employees

The Applicant may need to temporarily replace an employee who is responding to the incident. Overtime costs for the backfill employee are eligible even if the backfill employee is not performing eligible work as long as the employee that he/she is replacing is performing eligible Emergency Work.

[86] Stafford Act § 406(a)(2)(C), 42 U.S.C. § 5172, and 44 CFR § 206.228(a)(2)(i).
[87] Stafford Act § 403(d)(1)(B), 42 U.S.C. § 5170b, and 44 CFR § 206.228(a)(2)(iii).

FEMA also provides PA funding for straight-time if the backfill employee is a:

- Contracted or temporary employee; or
- Permanent employee called in on a normally scheduled day off (weekend or other off day).

If the backfill employee is called in from scheduled leave, only overtime is eligible.

Supervisors

Second-level supervisors and above (e.g., commissioners, mayors, department directors, police and fire chiefs) are usually exempt employees[88] and are not directly involved in the performance of a specific project. Therefore, they are not eligible for overtime, unless the Applicant:

- Demonstrates that the employee was directly involved with a specific project;
- Normally charges that individual's time to specific projects regardless of Federal funding; and
- Incurs overtime costs for the employee in accordance with a labor policy that meets the criteria in Chapter 2:V.A.1.

Other

Extraordinary costs (such as call-back pay, night-time and weekend differential pay, and hazardous duty pay) for essential employees who are called back to duty during administrative leave to perform eligible Emergency Work are eligible if costs are paid in accordance with a labor policy that meets the criteria above.

Administrative leave or similar labor costs incurred for employees sent home or told not to report due to emergency conditions are not eligible.

Stand-by Time

Subject to the provisions of labor cost eligibility criteria, FEMA also provides PA funding for costs related to stand-by time incurred in preparation for and directly related to actions necessary to save lives and protect public health and safety. To be eligible, stand-by time must be reasonable, necessary, and consistent with the Applicant's practice in non-federally declared incidents. Examples of when FEMA may reimburse costs for stand-by time include, but are not limited to:

- When bus drivers are prudently deployed to transport evacuees, even if the bus is not ultimately used for evacuations
- When first responders are prudently deployed for the purpose of evacuating or providing emergency medical care to survivors in order to save lives or protect health and safety, even if the employee does not ultimately perform eligible Emergency Work
- When a contract or union agreement requires payment for stand-by time

FEMA will determine whether any stand-by time claimed is reasonable and necessary based on whether:

- There is a contractual obligation to pay for stand-by time based on a labor agreement

[88] These employees are exempt from the overtime pay requirements set forth in the Fair Labor Standards Act.

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- The stand-by time occurred when it was necessary to have resources available to save lives and protect health and safety

For instance, the Applicant may be required to pay firefighter costs from portal-to-portal, which may result in paying for 24-hour shifts with periods of rest. FEMA will reimburse costs based on such requirements. However, FEMA limits its reimbursement to that which is reasonable and necessary, not to exceed 14 calendar days from the start of the incident period.

B. Applicant (Force Account) Equipment and Purchased Equipment

FEMA provides PA funding for the use of Applicant-owned equipment (force account equipment), including permanently mounted generators, based on hourly rates.[89] FEMA may provide PA funding based on mileage for vehicles, if the mileage is documented and is less costly than hourly rates.

There are instances when an Applicant does not have sufficient equipment to effectively respond to an incident. If the Applicant purchases equipment that it justifiably needs to respond effectively to the incident, FEMA provides PA funding for both the purchase price and either:

- The use of the equipment based on equipment rates (without the ownership and depreciation components); or
- The actual fuel and maintenance costs.

FEMA only applies equipment rates to the time the Applicant is actually operating equipment. Although costs associated with mobilizing equipment to a project site are eligible, costs for standby time (time spent on hold or in reserve) are not eligible unless the equipment operator uses the equipment intermittently for more than half of the working hours for a given day. In this case the intermittent standby time is eligible.

Executive Order (EO) 13688, Federal Support for Local Law Enforcement Equipment Acquisition, requires Federal agencies to ensure careful coordination and oversight of providing military and military-styled equipment, firearms, and tactical vehicles, including property covered under 22 CFR Part 121, The United States Munitions List, and 15 CFR Part 774, The Commerce Control List, (collectively "controlled equipment"), to State, Territorial, Tribal, and local law enforcement agencies. FEMA must comply with this EO when providing PA funding for purchase of this type of equipment.[90] The PA Division at FEMA Headquarters provides specific guidance when an Applicant seeks PA funding for law enforcement equipment.[91]

FEMA provides PA funding for force account equipment usage based on FEMA, State, Territorial, Tribal, or local equipment rates in accordance with the specific criteria noted below.

<u>FEMA Rates</u>

FEMA publishes equipment rates applicable on a national basis.[92] FEMA's rate schedule includes any item powered by fuel or attached to any item powered by fuel. FEMA develops equipment rates based on all costs associated with ownership and operation of equipment, with

[89] 44 CFR § 206.228(a)(1).
[90] Executive Order (EO) 13688, 80 *Fed. Reg.* 3451 (January 22, 2015).
[91] As of the date of this publication, FEMA policy to meet the requirements of EO 13688 is under development. Absent publication of a specific policy, Recipients and Applicants must obtain specific guidance from FEMA.
[92] www.fema.gov/schedule-equipment-rates.

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the exception of operator labor. FEMA equipment rate components include depreciation, overhead, equipment overhaul (labor, parts, and supplies), maintenance (labor, parts, and supplies), lubrication, tires, ground engaging component (if applicable), and fuel. Because the rates include maintenance costs, a mechanic's labor costs to maintain Applicant-owned equipment are not eligible.

State and Territorial Rates

State and Territorial rates are those established under State or Territorial guidelines for use in normal day-to-day operations. FEMA provides PA funding based on State or Territorial rates up to $75 per hour.[93] FEMA only provides PA funding for a rate above $75 per hour if the Applicant demonstrates that each of the components of the rate is comparable to current market prices.[94]

Tribal Rates

Tribal rates are those developed under Tribal Government guidelines for use in normal day-to-day operations. FEMA generally provides PA funding for equipment usage based on the lower of either the Tribal rate or the FEMA rate. However, if the Tribal rate is lower, but it does not reflect all of the costs associated with operating the equipment, FEMA may provide PA funding based on the higher FEMA rate. Additionally, if the Tribal rate is higher, the Applicant must document the basis for that rate and obtain approval from FEMA for the higher rate.[95]

If determining the lowest rate for each piece of equipment is overly burdensome because of the number of different types of equipment used, or if the Applicant prefers, FEMA will reimburse all equipment use based on the lower of the two rate schedules, rather than based on a comparison of each individual rate. In these cases, the PA Division at FEMA Headquarters will determine which schedule of rates is lower.

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Local Rates

Local rates are those developed under local government guidelines for use in normal day-to-day operations. FEMA generally provides PA funding for equipment usage based on the lower of either the local rate or the FEMA rate. However, if the local rate is lower, but it does not reflect all of the costs associated with operating the equipment, FEMA may provide PA funding based on the higher FEMA rate. Additionally, if the local rate is higher, the Applicant must document the basis for that rate and obtain approval from FEMA for the higher rate.[96]

If determining the lowest rate for each piece of equipment is overly burdensome because of the number of different types of equipment used, or if the Applicant prefers, FEMA will reimburse all equipment use based on the lower of the two rate schedules, rather than based on a comparison of each individual rate. In these cases, the PA Division at FEMA Headquarters will determine which schedule of rates is lower.

[93] 44 CFR § 206.228(a)(1)(i).
[94] Per 44 CFR § 206.228(a)(1)(i), reimbursement of rates in excess of $75 is determined on a case-by-case basis by FEMA. FEMA evaluates the rate for approval based on current market prices.
[95] 44 CFR § 206.228(a)(1)(ii).
[96] Ibid.

Equipment with No Established Rate

If the Applicant uses equipment that has no established State, Territorial, Tribal, or local rate, FEMA reimburses that equipment based on the FEMA rate.[97] If FEMA does not have a rate established for the equipment, the Applicant may either submit a rate for approval or request that FEMA provide a rate. If the Applicant submits a rate, it must include documentation demonstrating that each component of the rate is comparable to current market prices. The rate cannot be based on rental rates as such rates include cost components, such as profit, that are above and beyond what is necessary to operate and maintain force account equipment.

C. Leased Equipment

When the Applicant leases equipment, FEMA provides PA funding based on the terms of the lease. Leasing costs are eligible if:

- The Applicant performed an analysis of the cost of leasing versus purchasing the equipment;[98] and
- The total leasing costs do not exceed the cost of purchasing and maintaining equipment during the life of the eligible project.

If the leasing costs exceed the cost of purchasing and maintaining the equipment, FEMA determines the amount of eligible costs based on an evaluation of the reasonableness of the costs claimed, including whether the Applicant acted with prudence under the circumstances at the time it leased the equipment.

If the Applicant has a lease-purchase agreement and obtains ownership during completion of eligible work, FEMA provides PA funding for the equipment use based on the hourly equipment rate, as described in Chapter 2:V.B.

If the Applicant has a lease-purchase agreement and completes the eligible work prior to obtaining ownership, FEMA provides PA funding based on the cost to lease the equipment.

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D. Supplies

The cost of supplies, including materials, is eligible if:

- Purchased and justifiably needed to effectively respond to and/or recover from the incident; or
- Taken from the Applicant's stock and used for the incident.

The Applicant needs to track items taken from stock with inventory withdrawal and usage records.

FEMA provides PA funding for these items based on invoices, if available. If invoices are not available for items used from stock, FEMA provides PA funding based on the Applicant's established method of pricing inventory.[99] If the Applicant does not have an established method, FEMA provides PA funding based on historical data or prices from area vendors.

[97] 44 CFR § 206.228(a)(1)(iii).
[98] 2 CFR § 200.318(d).
[99] 2 CFR § 200.453(b).

FEMA consults with the U.S. Department of Homeland Security Office of Inspector General Emergency Management Oversight Team in cases where it has difficulty determining a reasonable value.

E. Disposition of Purchased Equipment and Supplies

The discussion below describes disposition requirements when purchased equipment or supplies (including materials) are no longer needed for federally funded projects.

In the context of disposition, equipment is any tangible personal property (including information technology systems) having a useful life of more than 1 year and a per-unit acquisition cost that equals or exceeds the lesser of the capitalization level established by the Applicant for financial statement purposes, or $5,000.[100] Tangible personal property that does not fall under this definition of equipment is a supply.[101]

Terminology

Personal property means property other than real property.

Real property means land, including land improvements, structures, and appurtenances thereto, but excludes moveable machinery and equipment.

When equipment or supplies (including materials) purchased with PA funding are no longer needed for response to or recovery from the incident, the Applicant may use the items for other federally funded programs or projects, provided the Applicant informs FEMA.[102]

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1. Disposition of Purchased Equipment

In accordance with Federal regulations, State and Territorial government Applicants dispose of equipment in accordance with State or Territorial laws and procedures.[103]

Tribal and local governments and PNPs must calculate the current fair market value of each individual item of equipment. The Applicant must provide the current fair market for any items that have a current fair market value of $5,000 or more. FEMA reduces eligible funding by this amount.[104]

Terminology

Fair market value is either the selling price or the advertised price for a similar item in a competitive market.

If an individual item of equipment has a current fair market value less than $5,000, FEMA does not reduce the eligible funding.[105]

2. Disposition of Purchased Supplies

All Applicants, including State and Territorial government Applicants, must calculate the current fair market value of any unused residual supplies (including materials) that FEMA funded for any of its projects and determine the aggregate total.

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[100] 2 CFR § 200.33.
[101] 2 CFR § 200.94.
[102] 2 CFR § 200.313(c).
[103] 2 CFR § 200.313(b).
[104] 2 CFR § 200.313(e)(2).
[105] 2 CFR § 200.313(e)(1).

The Applicant must provide the current fair market value if the aggregate total of unused residual supplies is greater than $5,000. FEMA reduces eligible funding by this amount.[106]

If the aggregate total of unused residual supplies is less than $5,000, FEMA does not reduce the eligible funding.

F. Disposition of Real Property

If the Applicant acquires or improves real property with PA funds, disposition and reporting requirements apply.[107] The PA Division at FEMA Headquarters provides disposition instructions when acquired or improved real property is no longer needed for the originally authorized purpose.[108]

G. Procurement and Contracting Requirements

FEMA provides PA funding for contract costs based on the terms of the contract if the Applicant meets Federal procurement and contracting requirements. This section provides information on Federal procurement and contracting requirements. FEMA's *Procurement Guidance for Recipients and Subrecipients Under 2 C.F.R. Part 200 (Uniform Rules)* provides additional details regarding Federal procurement and contracting requirements.[109]

1. Procurement Standards

Applicants must comply with Federal procurement standards as a condition of receiving PA funding for contract costs for eligible work. Federal procurement standards for State and Territorial governments are different than those for Tribal and local governments and PNPs.

State and Territorial government Applicants must follow the same policies and procedures they would use for procurements with non-Federal funds; comply with 2 CFR § 200.322, Procurement of recovered materials; and ensure that every purchase order or other contract includes any clauses required by 2 CFR § 200.326, Contract provisions.[110]

Non-State Applicants (Tribal and local governments and PNPs) must use their own documented procurement procedures that reflect applicable State, Territorial, Tribal, and local government laws and regulations, provided that the procurements conform to applicable Federal law and standards.[111] This requirement applies to Tribal Governments even when the Tribe is a Recipient.

Tribal and local governments and PNPs must conduct procurement transactions in a manner that complies with the following Federal standards:

- Provide full and open competition;[112]

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[106] 2 CFR § 200.314(a).
[107] 2 CFR §§ 200.311 and 200.329.
[108] 2 CFR § 200.311(c). As of the date of this publication, FEMA policy to meet these requirements is under development. Absent publication of a specific policy, Recipients and Applicants must obtain specific disposition instructions from FEMA.
[109] www.fema.gov/media-library/assets/documents/96773.
[110] 2 CFR § 200.317.
[111] 2 CFR § 200.318(a).
[112] 2 CFR § 200.319(a).

- Conduct all necessary affirmative steps to ensure the use of minority businesses, women's business enterprises, and labor surplus area firms when possible;[113]
- Exclude contractors that develop or draft specifications, requirements, statements of work, or invitations for bids or requests for proposals from competing for such procurements to ensure objective contractor performance and eliminate unfair competitive advantage;[114]
- Maintain written standards of conduct covering conflicts of interest and governing the performance of employees who engage in the selection, award, and administration of contracts; and[115]
- Maintain records sufficient to detail the history of the procurement. These records will include, but are not limited to:
    - Rationale for the method of procurement
    - Selection of contract type
    - Contractor selection or rejection
    - The basis for the contract price[116]

Terminology

Micro-purchase: purchase of supplies or services, the aggregate dollar amount of which does not exceed the micro-purchase threshold.
Small purchase procedure: relatively simple and informal procurement method for securing services, supplies, or other property that do not cost more than the simplified acquisition threshold set by the Federal Acquisition Regulation at 48 CFR Subpart 2.1.
Sealed bid: publicly solicited bid awarded via a firm fixed price contract to the lowest responsible bidder.
Competitive proposal: normally conducted with more than one source submitting an offer and generally used when conditions are not appropriate for the use of sealed bids.
Noncompetitive proposal: solicitation of a proposal from only one source.

Tribal and local governments and PNPs must use one of the following procurement methods:[117]

- Micro-purchase
- Small purchase procedure
- Sealed bid (formal advertising)
- Competitive proposal

FEMA may reimburse costs incurred under a contract procured through a noncompetitive proposal only when one or more of the following apply:

- The item is only available from a single source;
- The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;
- FEMA or the Recipient expressly authorizes a noncompetitive proposal in response to a written request from the Applicant; or
- After solicitation of a number of sources, competition is determined inadequate.[118]

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[113] 2 CFR § 200.321.
[114] 2 CFR § 200.319(a).
[115] 2 CFR § 200.318(c)(1).
[116] 2 CFR § 200.318(i).
[117] 2 CFR § 200.320.
[118] 2 CFR § 200.320(f).

Tribal or local governments and PNPs must perform a cost or price analysis in connection with every procurement action in excess of the simplified acquisition threshold,[119] including contract modifications. The method and degree of analysis depends on the facts surrounding the particular procurement situation. As a starting point, the Applicant must make independent estimates before receiving bids or proposals.[120] Additionally, the Applicant must negotiate profit as a separate element of the price for each contract in which there is no price competition and in all cases where a cost analysis is performed.[121]

FEMA PA staff coordinate with FEMA's Office of Chief Counsel when evaluating whether the Applicant complied with Federal procurement requirements. In the case of non-compliance with Federal procurement requirements, FEMA determines a reasonable cost for the eligible work completed based on all available information and documentation.[122]

2. Contracts

FEMA reimburses costs incurred using three types of contract payment obligations: fixed-price, cost-reimbursement, and, to a limited extent, time and materials (T&M). The specific contract types related to each of these are described in FEMA's *Procurement Guidance for Recipients and Subrecipients Under 2 C.F.R. Part 200 (Uniform Rules)*.[123]

The Applicant must include required provisions in all contracts awarded[124] and maintain oversight to ensure contractors perform according to the conditions and specifications of the contract and any purchase orders.[125]

FEMA does not reimburse costs incurred under a cost plus a percentage of cost contract or a contract with a percentage of construction cost method.[126]

FEMA advises against the use of T&M contracts and generally limits the use of these contracts to a reasonable time based on the circumstances during which the Applicant could not define a clear scope of work (SOW). T&M contracts do not provide incentives to the contractor for cost control or labor efficiency. Therefore, FEMA may reimburse costs incurred under a T&M contract only if all of the following apply:

- No other contract was suitable;
- The contract has a ceiling price that the contractor exceeds at its own risk; and
- The Applicant provides a high degree of oversight to obtain reasonable assurance that the contractor is using efficient methods and effective cost controls.[127]

The Applicant should define the SOW as soon as possible to enable procurement of a more acceptable type of contract.

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[119] The simplified acquisition threshold is set by the Federal Acquisition Regulation at 48 CFR § 2.101. The threshold is adjusted periodically for inflation.
[120] 2 CFR § 200.323(a).
[121] 2 CFR § 200.323(b).
[122] 2 CFR § 200.338.
[123] www.fema.gov/media-library/assets/documents/96773.
[124] 2 CFR § 200.326.
[125] 2 CFR § 200.318(b).
[126] 2 CFR § 200.323(d).
[127] 2 CFR § 200.318(j).

Some entities, such as Rural Electrical Cooperatives, provide the materials necessary to restore their facilities and refer to such contracts as Time and Equipment (T&E) contracts. The limitations and requirements that apply to T&M contracts also apply to T&E contracts.

The Davis Bacon Act, which requires "prevailing wage" payment to contracted workers based on the local union wage scale defined by the U.S. Department of Labor, does not apply to State, Territorial, Tribal, local government, or PNP contracts for PA-funded projects. However, if the Applicant incorporates prevailing wage rates as part of its normal practice for all contracts regardless of the funding source, then those rates are eligible.

H. Mutual Aid

When an Applicant does not have sufficient resources to respond to an incident, it may request resources from another jurisdiction through a "mutual aid" agreement. FEMA refers to the entity requesting resources as the Requesting Entity. FEMA refers to the entity providing the requested resource as the Providing Entity.

FEMA provides PA funding to the Requesting Entity as it is legally responsible for the work. FEMA does not provide PA funding directly to the Providing Entity. For the work to be eligible, the Requesting Entity must have requested the resources provided.

Some States have a statewide mutual aid agreement that designates the State as being responsible for reimbursing mutual aid costs. In these States, the Providing Entity may request funding directly from the State, with prior consent of the Requesting Entity, in accordance with applicable State laws and procedures. If the Requesting entity and the State approve the request and the State pays the Providing Entity, FEMA provides PA funding to the State. The Requesting Entity may be responsible for reimbursing the State for any non-Federal local cost share, depending on specific State requirements.

The Requesting Entity or State, if applicable, must provide a description of the services requested and received, along with documentation of associated costs (e.g., labor, equipment, supplies, or materials) to FEMA in support of a request for PA funding.

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Post-Incident Agreements

When the Requesting and Providing Entities do not have a written agreement, OR where such an agreement exists but is silent on reimbursement, the entities may verbally agree on the resources to be provided and on the terms, conditions, and costs of such assistance.

The agreement should be consistent with past practices for mutual aid between the entities. For example, if the Requesting Entity does not normally reimburse a Providing Entity for its costs, it should not agree to do so specifically for the declared incident.

Prior to funding, the Requesting Entity must document the verbal agreement in writing, have it executed by an official of each entity with the authority to request and provide assistance, and submit it to FEMA (preferably within 30 days of the Applicant's Briefing).[128]

[128] The Recipient conducts Applicant Briefings to provide PA Program information to potential applicants. This briefing is described in Chapter 3 Section I.B.

Eligibility

Three types of mutual aid are eligible: Emergency Work, emergency utility restoration (regardless of whether it is deemed Category B or F), and grant management. Mutual aid work is subject to the same eligibility criteria as contract work. Costs to transport the Providing Entity's equipment and personnel to the declared area are eligible.

Ineligible work performed by a Providing Entity includes, but is not limited to:

- Preparing to deploy or "standing-by"
- Dispatch operations outside the receiving State, Territory, or Tribe
- Training and exercises
- Support for long-term recovery and mitigation operations

The Emergency Management Assistance Compact (EMAC) is a national interstate mutual aid agreement that enables States and Territories to share resources in response to an incident. Work performed outside the receiving State or Territory that is associated with the operation of EMAC, including tracking of resources, is not eligible unless the work is associated with the receiving State's or Territory's emergency operations for the incident.

The Providing Entity's straight-time and overtime labor are eligible, including fringe benefits. When the Requesting Entity is a State, Territorial, Tribal, or local government and the Providing Entity is another division within the same State, Territorial, Tribal, or local government, straight-time for budgeted employees of the Providing Entity is not eligible.

If the Providing Entity backfills deployed personnel, overtime for backfill personnel is eligible even if they are not performing eligible work. However, straight-time for backfill personnel is not eligible.

FEMA reimburses the use of equipment provided to a Requesting Entity based on either the terms of the agreement or equipment rates (detailed in Chapter 2:V.B). FEMA provides PA funding to repair damage to this equipment the same way as it provides PA funding to repair damage to Applicant-owned equipment (detailed in Chapter 2:VI.C).

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I. Prisoners

FEMA provides PA funding for prisoner labor costs based on the rate that the Applicant normally pays prisoners. FEMA also provides PA funding for prisoner transportation to the worksite and extraordinary costs of security guards, food, and lodging.[129]

J. National Guard

The Governor may activate National Guard personnel to State Active Duty in response to an incident. Labor costs and per diem, if applicable, are eligible for State Active Duty personnel performing eligible work. Both straight-time and overtime are eligible, including fringe benefits.

The U.S. Department of Defense funds National Guard personnel activated under Full-Time National Guard Duty (Title 32) or Active Duty (Title 10). Therefore, Title 32 and Title 10

[129] Stafford Act § 406(a)(2)(B), 42 U.S.C. § 5172.

personnel costs, and any other costs funded by the U.S. Department of Defense, such as training, are not eligible.

K. Direct Federal Assistance

When the impact of an incident is so severe that the State, Territorial, Tribal, and local governments lack the capability to perform or contract eligible Emergency Work, the Recipient may request that the Federal Government provide this assistance directly. FEMA may task another Federal agency to perform or contract the work provided it is an eligible activity under Chapter 2:VI.A or B.[130] FEMA issues a "Mission Assignment" to task the work and refers to it as Direct Federal Assistance (DFA).[131] FEMA cannot task work that another Federal agency has its own authority to perform.[132] DFA has the same cost-share provisions applicable to the declaration (as described in Chapter 1:I.E).

L. Donated Resources

Individuals and organizations often donate resources (equipment, supplies, materials, or labor) to assist with response activities. FEMA does not provide PA funding for donated resources; however, the Applicant may use the value of donated resources to offset the non-Federal share of its eligible Emergency Work projects and DFA.

The Applicant may apply the offset if all of the following conditions are met:

- The donated resource is from a third party (a private entity or individual that is not a paid employee of the Applicant or Federal, State, Territorial, or Tribal government);
- The Applicant uses the resource in the performance of eligible Emergency Work; and
- The Applicant or volunteer organization tracks the resources and work performed, including description, specific locations, and hours.[133]

FEMA considers unpaid individuals who volunteer their labor to an Applicant to be third party even if they are officially members or employees of the Applicant organization (e.g. volunteer fire fighters at a PNP volunteer fire department).

Resources donated to the Applicant by an organization that would normally provide the same resources under its mission are eligible as an offset provided the organization is not federally funded. Additionally, if a mutual aid agreement provides for assistance at no cost to the Applicant, the Applicant may use the value of that assistance to offset the non-Federal cost share of its Emergency Work.

Resources donated by a Federal agency, funded through a Federal award, or from another federally funded source are not eligible as an offset to the

Donated Resource Project Preparation

FEMA prepares the donated resource project separate from the Emergency Work projects for the Applicant's incurred costs. FEMA does not obligate the donated resource project until after it obligates all of that Applicant's Emergency Work projects.

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[130] 44 CFR § 206.208(a).
[131] 44 CFR § 206.208(c)(1).
[132] 44 CFR § 206.208(c)(2).
[133] 2 CFR § 200.434(d).

non-Federal share.[134] Additionally, when an Applicant uses donated resources for ineligible Emergency Work, or for any Permanent Work (eligible or ineligible), the value of those resources are not eligible as an offset to the non-Federal share.

All projects approved under PA are subject to cost sharing[135]; therefore, FEMA applies the Federal cost share to the total value of donated resources. FEMA does not apply the offset toward other State, Territorial, or Tribal government obligations, toward Permanent Work, or toward another Applicant's projects.

Offset Amounts

- Volunteer Labor: The offset for volunteer labor is based on the same straight-time hourly labor rate, and fringe benefits, as a similarly qualified person in the Applicant's organization who normally performs similar work. FEMA does not offset volunteer labor based on overtime or premium rates. If the Applicant does not have employees performing similar work, FEMA credits the non-Federal share based on a rate consistent with those ordinarily performing the work in the same labor market.[136]
- Donated Equipment: The offset for donated equipment is based on equipment rates. See Chapter 2:V.B for information on equipment rates.
- Donated Supplies or Materials: The offset for donated supplies or materials is based on current commercial rates, which FEMA validates based on invoices from previous purchases or information available from vendors in the area.[137]
- Logistical Support: Reasonable logistical support for volunteers doing eligible work, such as donations warehousing and management related to eligible Emergency Work, may be eligible either for funding (if the Applicant provides the logistical support) or as a donations credit (if a third party provides the logistical support), subject to approval by FEMA.

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M. Project Management and Design Services

Project management activities, such as procurement, document review, and construction oversight, are eligible provided the activities are tracked and directly related to a specific, eligible project.

Engineering and design services and construction inspection are also eligible provided the services are necessary to complete eligible work. Some projects require only very basic services or none at all, while others require specialized engineering and design.

When evaluating the eligibility of project management and design services and the reasonableness of associated costs, FEMA considers all of the following:

- Project complexities;
- Whether redesign was necessary as a result of unexpected site conditions;
- Whether the project includes improvements that are not eligible for funding (management and design costs associated with ineligible work are not eligible); and

[134] 2 CFR § 200.306(b)(5).
[135] 44 CFR § 206.203(b).
[136] 2 CFR § 200.306(e).
[137] 2 CFR § 200.306(g).

- Applicable cost factors noted in the beginning of Chapter 2:V.

N. Grant Management and Administration

FEMA provides PA funding for administrative costs related to managing the PA Program and PA projects. FEMA provides PA funding differently depending on whether the costs are indirect, administrative, or other expenses the Recipient or Subrecipient incurs in administering and managing PA awards that are not directly chargeable to a specific project or if the costs are directly chargeable to a specific project.[138]

1. Section 324 Management Costs

Section 324 of the Stafford Act authorizes PA funding for management costs. Management costs are indirect costs, administrative expenses, and other expenses a Recipient or Subrecipient incurs in administering and managing PA awards that are not directly chargeable to a specific project.[139] Examples include, but are not limited to:

- Preliminary Damage Assessments (PDAs)
- Meetings regarding the PA Program or overall damage claim
- Organizing damage sites into logical groups
- Travel expenses
- Correspondence

FEMA provides 100 percent Federal funding for management costs based on actual costs incurred up to a percentage of the Federal share of projected eligible program costs, not including DFA. For PA, the maximum percentage is 3.34 percent for Major Disaster Declarations[140] and 3.90 percent for Emergency Declarations.[141] Management costs are capped at a combined total of $20 million dollars per declaration across both PA and the Hazard Mitigation Grant Program (HMGP), unless FEMA approves an exception.[142]

If a State and Tribal Government are both Recipients for the same incident within the same State, then both are eligible to receive management cost funding. The Recipient determines the amount of funds, if any, that it will pass through to Subrecipients for management costs.[143]

The Recipient can expend management cost funds for a maximum time of:

- Eight years from the date of a Major Disaster Declaration, or 180 days after the latest performance period of a non-management cost PA project or HMGP project narrative, whichever is sooner[144]
- Two years from the date of an Emergency Declaration, or 180 days after the latest performance period of a non-management cost PA project, whichever is sooner[145]

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[138] Stafford Act § 324(a), 42 U.S.C. § 5165b; 44 CFR § 207.2; and 2 CFR §§ 200.56 and 200.412.
[139] Stafford Act § 324(a), 42 U.S.C. § 5165b; 44 CFR § 207.2; and 2 CFR §§ 200.56 and 200.412.
[140] 44 CFR § 207.5(b)(4)(i).
[141] 44 CFR § 207.5(b)(4)(iii).
[142] 44 CFR § 207.5(c).
[143] 44 CFR § 207.4(c).
[144] 44 CFR § 207.8(b)(1).
[145] 44 CFR § 207.8(b)(2).

The Recipient can submit a written justification for an extension on the period of availability to FEMA.[146] If approved, FEMA limits any additional time to a maximum of 180 days after the expiration of any performance period extensions granted under PA for project completion of a non-management cost project.[147]

2. Direct Administrative Costs

If the Recipient or Subrecipient incurs administrative costs that it tracks, charges, and accounts for directly to a specific eligible project, the costs are eligible as Direct Administrative Costs (DAC). The Recipient or Subrecipient cannot charge costs to a project if it previously allocated similar costs incurred for the same purpose in like circumstances to indirect costs.

Costs associated with the following activities are eligible as DAC if they are related to only one project and meet the above requirements (this list is not all-inclusive):

- Site inspections
- Developing the detailed site-specific damage description
- Evaluating Section 406 hazard mitigation measures
- Reviewing the Project Worksheet (PW)[148]
- Preparing Small Projects[149]
- Preparing correspondence
- Travel Expenses
- Collecting, copying, filing, or submitting documents to support the claim
- Requesting disbursement of PA funds

Recipient DAC Claim

Recipients may claim all DAC for each declaration on one PW provided DAC related to different Subrecipients are documented on separate site sheets within that PW. The Recipient must link the costs and activities to specific subawards within each site sheet.

Some Recipients submit DAC quarterly. To minimize Federal, State, and Tribal administrative costs, once a Recipient submits its initial DAC claim, FEMA does not process another DAC claim related to the same subaward until the Recipient submits its final DAC claim for that subaward.

See Chapter 3:II for information on PWs and sites sheets.

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FEMA normally considers the salaries of administrative and clerical staff as indirect costs. Direct charging of these costs may be appropriate only if all of the following conditions are met:

- Administrative or clerical services are integral to a project or activity;
- Individuals involved are specifically identified with the project or activity;
- Such costs are explicitly included in the budget for that project or have FEMA's prior written approval; and
- The costs are not also recovered as indirect costs.

FEMA considers the following factors when determining the reasonableness of DAC:

- Whether the type of employee and skill level is appropriate for the activities performed; and

[146] The FEMA Chief Financial Officer must approve the request.
[147] 44 CFR § 207.8(b)(3).
[148] A Project Worksheet (PW) is the form FEMA uses to document the details of the Applicant's project and costs claimed.
[149] The Applicant may prepare its own Small Projects. Chapter 3 Section IV.B defines Small Projects.

- The level of effort required to perform an activity.

If the type of employee or skill level is not appropriate for the specific task, FEMA limits PA funding to a rate based on the appropriate employee type or skill level. For complex projects, staff with a higher level of technical proficiency and experience may be appropriate.

FEMA will use the level of effort required by FEMA staff to perform similar functions as a reference point to determine whether the level of effort claimed by the Recipient or Subrecipient is reasonable.

FEMA does not reimburse DAC based on blended rates (e.g., a labor rate plus a percentage of overall travel expenses or one rate for all levels of employees involved in a project). Labor and travel expenses must be tracked separately and shown as directly related to a specific project.

FEMA provides PA funding for DAC at the same cost-share provisions applicable to the declaration (as described in Chapter 1:I.E).

O. Surveys to Assess or Locate Damage or Debris Impacts

The Applicant is responsible for identifying locations of incident-related damage or debris impacts. Costs related to assessing overall impacts of an incident, locating damage or debris impacts, and conducting PDAs are indirect costs and eligible as management costs, described in Chapter 2:V.N.1. They are not eligible as project costs or DAC.

If, during a survey after the declaration, the Applicant identifies incident-related damage to a facility, the costs related to the inspection of that facility are eligible as DAC provided the Applicant tracks the costs to a specific project.

Further detailed inspections of that damage to determine the extent of damage or quantity of debris and method of repair or removal, including professional evaluations, are eligible as part of the work to restore the facility or work to remove the debris. If the Applicant performs a detailed inspection of a partially damaged system, eligible costs are based on the percentage of that system that was actually damaged. For example, if after inspecting 500 linear feet of sewer line, the Applicant identified 100 linear feet of damaged line, only one-fifth of the total inspection costs are eligible.

FEMA has specific eligibility criteria for inspecting earthquake damage to buildings constructed with welded steel-moment frames. FEMA bases the eligibility criteria on *Recommended Post Earthquake Evaluation and Repair Criteria for Welded Steel Moment Frame Buildings* (FEMA 352).[150] The criteria are summarized in Appendix C: Welded Steel Moment Frame.

Safety inspections are eligible as discussed in Chapter 2:VI.B.14.

P. Duplication of Benefits

FEMA is legally prohibited from duplicating benefits from other sources. If the Applicant receives funding from another source for the same work that FEMA funded, FEMA reduces the eligible cost or de-obligates funding to prevent a duplication of benefits.[151]

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[150] www.fema.gov/media-library/assets/documents/747.
[151] Stafford Act § 312, 42 U.S.C. § 5155, and 2 CFR § 200.406.

1. Insurance Proceeds

FEMA cannot provide PA funding that duplicates insurance proceeds.[152] Consequently, FEMA reduces eligible costs by the amount of:

- Actual insurance proceeds, if known;[153] or
- Anticipated insurance proceeds based on the Applicant's insurance policy, if the amount of actual insurance proceeds is unknown. FEMA subsequently adjusts the eligible costs based on the actual amount of insurance proceeds the Applicant receives.

FEMA requires the Applicant to take reasonable efforts to pursue claims to recover insurance proceeds that it is entitled to receive from its insurer(s). If the Applicant expends costs to pursue its insurance claim, FEMA offsets the insurance reduction with the Applicant's reasonable costs to pursue the claim.

If the Applicant receives insurance proceeds for ineligible losses (e.g., business interruption), FEMA calculates a relative apportionment of insurance proceeds to determine the insurance reduction based on:

- The proceeds received per type of loss as specified by the insurance policy or settlement documentation;
- Policy limits for categories of loss as specified in the insurance policy; or
- The ratio of total eligible losses to total ineligible losses.

FEMA Recovery Policy (FP) 206-086-1, *Public Assistance Policy on Insurance*, describes insurance reductions in detail.[154]

2. Non-Federal Grants and Cash Donations

Grants and cash donations from non-Federal sources are subject to the following criteria based on whether the funds are provided toward a specific purpose and whether that specific purpose is otherwise eligible for PA funding.

- If the funds are designated for the same purpose as eligible work, the following apply:
  - The Applicant may use the funds toward its non-Federal cost share.
  - If the funds are not used toward the non-Federal cost share, FEMA considers the donation or non-Federal grant a duplication of benefits and reduces eligible costs by the duplicated amount.
  - If the funds exceed the amount of the non-Federal cost share, FEMA reduces eligible costs by the excess amount.
- If the funds are designated for non-specific purposes, FEMA does not consider the funds a duplication of benefits. The Applicant may use the funds toward its non-Federal cost share. If the funds exceed the amount of the non-Federal share, the Applicant can apply the excess amount toward ineligible work.
- If the funds are designated for a specific purpose that is not eligible, FEMA does not allow the Applicant to apply the funds toward its non-Federal cost share.

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[152] Ibid.
[153] 44 CFR §§ 206.252(c) and 253(a).
[154] www.fema.gov/media-library/assets/documents/107564.

3. Third-Party Liability

When a third party[155] causes damage (e.g., an oil spill) or increases the cost of repair or cleanup and an Applicant requests FEMA funding for the costs, FEMA requires the Applicant to make reasonable efforts to pursue claims to recover costs it is entitled to receive from the third party.

If the costs recovered are not adequate despite the Applicant's good faith effort, FEMA reduces eligible costs based on the recovered amount. If the Applicant receives funds from the third party for eligible and ineligible work or losses, FEMA determines the offset amount based on:

- The proceeds received for eligible losses as specified by the settlement documentation; or
- The ratio of total eligible losses to total ineligible losses.

4. Other Federal Awards

If the Applicant receives funds from another Federal agency for the same purpose as PA funding, it is a duplication of benefits. FEMA cannot duplicate funds provided by another Federal agency.

The Applicant can only apply other Federal award funds toward the PA non-Federal cost share if the other Federal award has specific statutory authority allowing it to be utilized to meet cost-share requirements.[156] For example, the Community Development Block Grant program administered by HUD may be used for the non-Federal share on PA projects if certain requirements are met. The Applicant cannot apply PA funds toward the non-Federal cost share of other Federal agency funding.

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Q. Duplication of Funding Between FEMA Programs

FEMA provides assistance under its Individual Assistance (IA) programs and HMGP that could duplicate assistance that is available under the PA Program. FEMA must ensure it does not duplicate funds in areas where its programs overlap.

For IA, individuals may receive assistance for work that, under certain circumstances, is also eligible under PA when a State, Territorial, Tribal, or local government has legal authority to perform the work. For example, a homeowner may receive Individuals and Households Program (IHP) assistance for debris clearance from a privately owned road and the local government may request PA funding for debris clearance from the same road for emergency vehicle access. FEMA must ensure it does not provide PA funding for the same work to two different entities.

For HMGP, FEMA can provide funding for a wide range of mitigation measures, including measures that may also be eligible under the PA Program. FEMA must ensure that PA funds do not duplicate HMGP funds.

R. Ineligible Costs

The Stafford Act authorizes FEMA to provide PA funding for specific work performed as a result of the incident. It does not authorize FEMA to provide PA funding for all losses or costs resulting from the incident. The following costs are not eligible because the Stafford Act does not authorize FEMA to provide PA funding for these items.

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[155] A third party is a private entity or individual that is not involved in the Federal award, i.e., not the Applicant or Federal, State, Territorial, or Tribal government.
[156] Stafford Act § 312, 42 U.S.C. § 5155.

1. Loss of Revenue

FEMA cannot provide PA funding for revenue lost as a result of the incident. The following are examples of when loss of revenue may occur as a result of an incident:

- Hospitals release non-critical patients to make room for survivors
- Hospitals sustain damage that reduces pre-existing capacity
- States open a toll road for evacuation and do not charge a toll
- States waive the normal fee for ferry service to encourage alternate transportation after an incident
- A utility system is shut down as a result of the incident
- Events are cancelled as a result of an entity using a venue for incident-related activities, such as sheltering

2. Loss of Useful Service Life

FEMA cannot provide PA funding for the projected loss of useful service life of a facility. For example, if a road has been inundated by flood waters for an extended period of time, FEMA cannot provide PA funding for the value of the projected loss of useful life of the road due to the long-term effects the inundation might have on the road.

3. Tax Assessments

State, Territorial, Tribal, and local governments may conduct tax assessments to re-assess real property values after an incident. Costs related to conducting these assessments are not eligible because the assessments are neither essential to addressing an immediate threat to life or improved property, nor connected with the permanent restoration of eligible facilities.

4. Increased Operating Costs

Increased costs of operating a facility or providing a service are generally not eligible, even when directly related to the incident. However, short-term increased costs that are directly related to accomplishing specific emergency health and safety tasks as part of emergency protective measures may be eligible, as discussed in Chapter 2:VI.B.2.

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VI. Emergency Work Eligibility

FEMA is authorized to provide PA funding for Emergency Work,[157] including emergency protective measures and debris removal. Emergency Work is that which must be done immediately to:

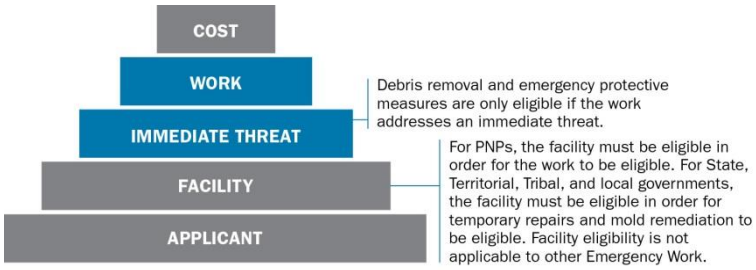

Figure 12. Emergency Work Eligibility

- Save lives;
- Protect public health and safety;
- Protect improved property; or

[157] 44 CFR § 206.201(b).

- Eliminate[158] or lessen an immediate threat of additional damage.[159]

"Immediate threat" is the threat of additional damage or destruction from an incident that can reasonably be expected to occur within 5 years of the declared incident.[160]

For flood incidents specifically, an immediate threat is a threat from a 5-year flood (a flood that has a 20 percent chance of occurring in any given year). For other incidents, an immediate threat means imminent danger from an incident that can reasonably be expected to occur within 5 years of the declared incident. The declared incident must have caused the immediate threat to exist. However, the threat itself can be from any type of incident; it is not limited to the type of incident that caused the initial damage or threat.

The deadline to complete Emergency Work is 6 months from the declaration date unless the Recipient or FEMA authorize an extension.[161] Although regulations allow 6 months to complete Emergency Work, eligible Emergency Work is that which is necessary to address an immediate threat (as shown in Figure 12). FEMA considers the urgency with which the Applicant proceeds with work when evaluating eligibility. The Applicant should not delay in following its normal policies and procedures when taking actions to address threats to life, public health and safety, and improved property.

For PNP Applicants, eligible Emergency Work is generally limited to that associated with an eligible PNP facility as follows:

- Debris removal from the facility property; and
- Emergency protective measures to prevent damage to the facility and its contents.

In limited circumstances, PNPs may be eligible for other types of Emergency Work when essential components of a facility are urgently needed to save lives or protect health and safety (see Chapter 2:III.B for details).

For State, Territorial, Tribal, and local Applicants, evaluating facility eligibility is not necessary for most Emergency Work. For these Applicants, eligibility of Emergency Work is primarily based on evaluation of an immediate threat and legal authority to perform the work.

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Environmental and Historic Preservation

The Applicant is responsible for obtaining all required environmental and historic preservation (EHP) permits from the appropriate agencies before proceeding with Emergency Work. The Applicant should make every effort to inform the Recipient and FEMA of necessary Emergency Work prior to performing the work, when appropriate, to afford FEMA the opportunity to perform EHP reviews prior to the start of work.

Emergency Work is excluded from National Environmental Policy Act (NEPA) review through a statutory exclusion (STATEX).[162] However, FEMA must ensure compliance with other Federal

[158] While the regulatory definition of the term "Emergency Work" includes the term "avert," the regulatory language used for the specific eligibility criteria for debris removal and emergency protective measures includes the term "eliminate," not "avert."
[159] In addition to addressing immediate threats to life, health and safety, and improved property, debris removal may be authorized to ensure economic recovery of the affected community.
[160] 44 CFR § 206.221(c).
[161] 44 CFR §§ 206.204(c) and (d).
[162] Stafford Act § 316, 41 U.S.C. 5159.

EHP laws, regulations, and EOs, including those related to floodplains, wetlands, federally listed threatened and endangered species and their critical habitats, and historic properties. Most EHP laws contain emergency provisions to expedite response activities that must be taken to prevent imminent loss of human life or damage to improved property.

When performing Emergency Work, the Applicant should avoid new ground disturbance when possible. If the Applicant cannot avoid new ground disturbance, it must consider impacts to natural and cultural resources and obtain all necessary permits.

A. Debris Removal (Category A)

Debris removal activities, such as clearance, removal, and disposal, are eligible as Category A if the removal is in the public interest based on whether the work:

- Eliminates immediate threats to lives, public health, and safety;
- Eliminates immediate threats of significant damage to improved public or private property;
- Ensures economic recovery of the affected community to the benefit of the community at large;[163] or
- Mitigates risk to life and property by removing Substantially Damaged[164] structures and associated structures and appurtenances as needed to convert property acquired using HMGP funds to uses compatible with open space, recreation, or wetlands management practices. Such removal must be completed within 2 years of the declaration date unless extended by the FEMA Assistant Administrator of the Recovery Directorate.[165]

Debris includes, but is not limited to, vegetative debris, construction and demolition debris, sand, mud, silt, gravel, rocks, boulders, and vehicle and vessel wreckage.

For a PNP, eligible debris removal is limited to that associated with an eligible facility, including debris on the property of the eligible facility.

Removal of debris from improved public property and public rights-of-way (ROWs), including Federal-aid roads,[166] is eligible. If State, Territorial, Tribal, or local governments authorize residents to place incident-related debris on public ROWs, FEMA provides PA funding to remove the debris from the ROWs for a limited period of time.

Removal of debris placed on the public ROWs from commercial properties is not eligible unless it is pre-approved by FEMA (see Chapter 2.VI.A.6(d)). Additionally, removal of materials related to the construction, repair, or renovation of either residential or commercial structures is not eligible.

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[163] This condition is generally restricted to debris removal from large commercial areas when a significant percentage of the commercial sector of a community is impacted and coordinated debris removal is necessary to expedite restoration of the economic viability of the affected community.
[164] Substantial Damage is damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.
[165] Stafford Act § 407, 42 U.S.C. § 5173, and 44 CFR § 206.224(a).
[166] The term "Federal-aid roads" means the highways on the Federal-aid highway system and all other public roads not classified as local roads or rural minor collectors. The Federal-aid highway system means the National Highway System and the Dwight D. Eisenhower National System of Interstate and Defense Highways (the Interstate System).

Debris removal from the following is not eligible:

- Federally maintained navigable channels and waterways
- Flood control works under the authority of the Natural Resources Conservation Service (NRCS)
- Agricultural land
- Natural, unimproved land, such as heavily wooded areas and unused areas

Terminology

Flood control works are those structures such as levees, flood walls, flood control channels, and water control structures designed and constructed to have appreciable effects in preventing damage by irregular and unusual rises in water levels.

Removing debris to restore the pre-disaster capacity of engineered facilities may be eligible as Permanent Work if the Applicant can substantiate the pre-disaster capacity and maintenance of that facility as described in Chapter 2:VII.H.2(a).

Environmental and Historic Preservation Compliance Considerations

Although debris removal is generally statutorily excluded from NEPA review, FEMA must ensure compliance with other Federal laws, regulations, and EOs prior to funding the work. Accordingly, FEMA must ensure that the Applicant's debris removal operations avoid impacts to floodplains, wetlands, federally listed threatened and endangered species and their critical habitats, and historic properties (including maritime or underwater archaeological resources if waterways are impacted). The Applicant must stage debris at a safe distance from property boundaries, surface water, wetlands, structures, wells, and septic tanks with leach fields.

The Applicant should contact applicable Federal, State, Territorial, and Tribal regulatory agencies to ensure compliance with requirements and permits for debris-related operations. Upon completion of debris removal and disposal, site remediation may be necessary at staging sites and other impacted areas.

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1. Alternative Procedures Pilot Program for Debris Removal

The Applicant may elect to participate in one or more of the following Alternative Procedures for debris removal:[167]

- Increased Federal cost share based on a sliding scale linked to the accelerated completion of debris removal
- Reimbursement of straight-time for force account labor
- Retention of income generated from recycling debris
- A one-time 2 percent increased cost-share incentive for a FEMA-accepted debris management plan[168] with pre-qualified debris removal contractors before the start of the incident period

The Applicant must notify FEMA of its intent to participate in the pilot program by signing and submitting the *Public Assistance Alternative Procedures Pilot Program for Debris Removal*

[167] The Debris Removal Alternative Procedures Pilot Program is currently authorized for declarations through June 27, 2017. On or before that date, FEMA will provide information as to whether the program is extended beyond that date at www.fema.gov/alternative-procedures.
[168] FEMA reviews debris management plans as described in Appendix D: Debris Management Plan Job Aid.

Acknowledgement[169] before obligation of its first debris removal project or within 60 days of its Recovery Scoping Meeting, whichever is sooner. If the Applicant submits the acknowledgement and subsequently wishes to rescind its participation in one or more of the Alternative Procedures, it may do so provided it submits written notification prior to obligation of its first debris removal project. The process for participating in and preparing projects under the Alternative Procedures is further detailed at www.fema.gov/alternative-procedures.

(a) Accelerated Debris Removal – Increased Federal Cost Share

With the Accelerated Debris Removal Procedure, FEMA increases its Federal cost share above the minimum 75 percent based on the timeframes shown in Table 4. Each percentage applies to the costs related to the work conducted during each timeframe. The timeframe is based on the start date of the incident period.

FEMA will not provide PA funding for costs associated with debris removal activities conducted after 180 days from the start of the incident period, unless FEMA grants an extension. Recipients may not grant time extensions under the Accelerated Debris Removal Procedure. FEMA is unlikely to authorize extensions for weather-related delays or the inability to obtain permits in a timely manner. Additional debris removal beyond the 180 days cannot be completed via DFA.

Table 4. Accelerated Debris Removal Alternative Procedure

Timeframe (days from start of incident period)	Federal Cost Share
1–30	85%
31–90	80%
91–180	75%
181+	0% (unless FEMA approves a time extension)

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To participate in the Accelerated Debris Removal Procedure, the Applicant must apply the procedure to all of its debris removal projects. The projects must reflect actual costs for all debris removal activities conducted from the incident's start date until the end of the applicable timeframe. FEMA will not process Accelerated Debris Removal projects based on estimates, even for Small Projects.

The Accelerated Debris Removal Procedure is only available for grant assistance. FEMA will not apply this procedure to debris removal conducted via DFA.

(b) Reimbursement of Straight-Time for Force Account Labor

Reimbursement of straight-time for the Applicant's employees conducting debris removal activities is eligible.

(c) One-Time 2 Percent Increased Federal Cost Share Incentive for a FEMA-Accepted Debris Management Plan

FEMA encourages State, Territorial, Tribal, and local governments to establish written procedures and guidance for managing debris in an expeditious, efficient, and environmentally sound manner. FEMA refers to this as a Debris Management Plan (DMP). When the Applicant

[169] www.fema.gov/media-library/assets/documents/89675.

has both a FEMA-accepted DMP and pre-qualified[170] debris removal contractors before the start of the incident period, the Applicant may request the DMP incentive under the Alternative Procedures. The incentive consists of an additional 2 percent Federal cost share for debris removal activities conducted within 90 days from the start of the incident period. The Applicant must implement the DMP for that incident. FEMA will only provide this incentive toward one incident for each Applicant during the Alternative Procedures Pilot Program for Debris Removal.

The content of a DMP will vary depending on State, Territorial, Tribal, and local vulnerabilities, ordinances, zoning, critical infrastructure locations, disposal locations, and other localized factors. The following 10 elements are the basic components of a comprehensive DMP:

- Debris management overview
- Incidents and assumptions
- Debris collection and removal plan
- Debris removal from private property
- Public information
- Health and safety requirements
- Environmental considerations and other regulatory requirements
- Temporary debris management sites and disposal locations
- Force account or contract resources and procurement
- Monitoring of debris operations

FEMA's Debris Management Plan Job Aid (Appendix D) discusses each of these components in detail.

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Pre-qualified Contractor

The Applicant must have pre-qualified contractors in order to be eligible for the additional 2 percent Federal cost share. A pre-qualified contractor is one that the Applicant evaluated and determined to be qualified to perform the work based on capabilities, such as technical and management skills, prior experience, past performance, and availability. To pre-qualify a contractor, the Applicant:

- Should identify the qualifications during the development of its DMP, which should include specific contract requirements, and explain how it established the qualifications;
- Should ensure pre-qualification procedures do not restrict full and open competition and should document its justification for the use of pre-qualified contractors in procurements using Federal funds; and
- Must ensure that the list is current and includes enough qualified sources to ensure maximum full and open competition.

A pre-qualified contractor is not entitled to a "stand-by" contract. The Applicant must still conduct full and open competition that meets the requirements of Chapter 2:V.G. The Applicant must allow additional contractors to qualify during the solicitation period.

[170] 2 CFR § 200.319(d).

Review and Acceptance

The Applicant should submit its DMP to the State or Territory for review and coordination. The State or Territory should review the DMP to ensure that it meets the overall intent of establishing processes and procedures to remove debris expeditiously, efficiently, and in an environmentally sound manner and subsequently forward it to FEMA. FEMA reviews the DMP to confirm that it sufficiently addresses each of the components. FEMA generally provides its determination of whether the DMP is acceptable within 30 days of receipt of the DMP.

FEMA's review and acceptance of the DMP does not constitute FEMA approval of any operational component of the plan and does not commit FEMA to funding any aspect of the plan. FEMA determines the eligibility of costs for debris removal and management based on established PA Program authorities, regulations, policies and guidance.

(d) Recycling Revenue

Standard PA Program

If the Applicant receives revenue for recycling debris, FEMA reduces PA funding by the amount of revenue received. The Applicant may deduct costs for administering and marketing the sale of the salvageable materials from the fair market value.

If a contract allows the contractor to take possession of salvageable material and benefit from its sale to lower bid prices, there is no salvage value to be recovered at the end of the project. Therefore, the Applicant has no further obligation to FEMA.

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Alternative Procedures Pilot Program

One of the alternative procedures authorizes the Applicant to retain revenue received through recycling if used prior to the period of performance deadline for any of the following purposes:

Recycling Revenue

- Standard Program: Applicant cannot retain; FEMA reduces PA funding by the amount of revenue received.
- Alternative Procedures: Applicant may retain if used for an approved purpose.

- To offset the non-Federal cost share of the Applicant's debris projects
- To develop disaster preparedness and assistance plans, programs, and capabilities
- To reduce the risk of future damage, hardship, or suffering from an incident
- To improve future debris removal operations or planning, including, but not limited to, the following:
    - Developing, updating, or revising DMPs
    - Enhancing Applicant-owned landfills and debris management sites
    - Installing mechanisms to control the flow of debris in future incidents (e.g., debris trash racks, K-Rail debris guards, silt fences)
    - Purchasing equipment to facilitate sorting, reducing, recycling, or removing debris (e.g., street sweepers, shredders, backhoes, balers, sorting conveyors)
    - Purchasing software and hardware products to facilitate quantifying debris
    - Purchasing onboard weight measurement systems for debris-collection trucks

- Purchasing software systems for debris load management to assist in tracking trucks, drivers, and routes

FEMA does not provide PA funding for the cost of establishing or managing the recycling program or process, or additional sorting or processing of debris for recycling purposes.

The Applicant must provide written notification of the revenue received. It should submit this information within 30 days of completion of its debris removal operations. This should include the completion date of the debris removal operations, the quantity and types of debris recycled, and the cost for processing the debris for recycling. The Applicant must provide an accounting of how it used the revenue. It should submit this information within 90 days of the period of performance deadline.

If the Applicant does not use the revenue for an authorized purpose, FEMA reduces PA funding by the amount of the recycling revenue.

2. Hazardous Limbs, Trees, and Stumps

Eligible vegetative debris may include tree limbs, branches, stumps, or trees that are still in place, but damaged to the extent they pose an immediate threat. These items are not eligible if the hazard existed prior to the incident, or if the item is in a natural area and does not extend over improved property or public-use areas, such as trails, sidewalks, or playgrounds.

Contractors typically charge debris removal based on a unit price for volume (cubic yards) or weight (tons). A hazardous tree or stump may be collected individually. When these items are collected individually, contractors often charge a price per tree or stump based on its size. FEMA encourages Applicants to procure branch or limb removal from trees on a one-time charge per tree basis as opposed to a unit price per limb or branch to facilitate more cost-effective operations. FEMA has specific eligibility criteria and documentation requirements for funding these items based on a price per each item instead of by volume or weight. If the Applicant does not provide sufficient documentation, it will jeopardize its PA funding.

Bracing a tree is eligible (as Category B) only when doing so is less costly than removal and disposal. If the Applicant chooses to brace a tree rather than remove it, the tree is not eligible for removal later if it dies.

Pruning, maintenance, trimming, and landscaping are not eligible.

(a) Broken Limb or Branch Removal

Removal of broken limbs or branches that are 2 inches or larger in diameter (measured at the point of break) that pose an immediate threat are eligible. An example is a broken limb or branch that is hanging over improved property or public-use areas, such as trails, sidewalks, or playgrounds if it could fall and cause injury or damage to improved property.

FEMA does not fund removal of broken limbs or branches located on private property unless:

- The limbs or branches extend over the public ROW;
- The limbs or branches pose an immediate threat; and
- The Applicant removes the hazard from the public ROW (without entering private property).

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Only the minimum cut necessary to remove the hazard is eligible. For example, cutting a branch at the trunk is not eligible if the threat can be eliminated by cutting it at the closest main branch junction.

(b) Tree Removal

FEMA considers incident-damaged trees to be hazardous and eligible if the tree has a diameter of 6 inches or greater measured 4.5 feet above ground level, and the tree:

- Has a split trunk;
- Has a broken canopy; or
- Is leaning at an angle greater than 30 degrees.

For trees that have 50 percent or more of the root-ball exposed, removal of the tree and root-ball and filling the root-ball hole are eligible. For contracted removal of a tree with a root-ball, FEMA will not reimburse two separate unit costs to remove the tree and its root-ball.

For trees that have less than 50 percent of the root-ball exposed, FEMA only provides PA funding to flush cut the item at ground level and dispose of the cut portion based on volume or weight. Grinding any residual stump after cutting the tree is not eligible.

(c) Stump Removal

For stumps that have 50 percent or more of the root-ball exposed, removal of the stump and filling the root-ball hole are eligible. If grinding a stump in-place is less costly than extraction, grinding the stump in-place is eligible.

Stump removal in areas with known or high potential for archaeological resources usually requires that FEMA further evaluate and consult with the State Historic Preservation Officer (SHPO) or Tribal Historic Preservation Officer (THPO). If the Applicant discovers any potential archeological resources during stump removal, the Applicant must immediately cease work and notify FEMA.

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Contracted Stump Removal

FEMA only reimburses contracted costs charged on a per-stump basis if:

- The stump is 2 feet or larger in diameter measured 2 feet above the ground; and
- Extraction is required as part of the removal.

The Applicant needs to ensure the price for stump removal includes extraction, transport, disposal, and filling the root-ball hole.

For stumps that have less than 50 percent of the root-ball exposed, FEMA only provides PA funding to flush cut the item at ground level and dispose of the cut portion based on volume or weight. Grinding any residual stump is not eligible.

For stumps smaller than 2 feet in diameter, or for stumps of any size that do not require extraction, FEMA only provides PA funding based on volume or weight as removal of these stumps does not require special equipment. If the Applicant claims reimbursement of these stumps on a per stump basis, FEMA limits PA funding based on a unit price for volume or tons, calculated using the Stump Conversion Table (Appendix E).

If the Applicant incurs additional costs in picking up stumps 2 feet or larger in diameter that the contractor did not extract, it should complete the Hazardous Stump Worksheet (Appendix F) and present documentation to substantiate the costs as reasonable based on the equipment required to perform the work.

(d) Documentation Requirements

The Applicant must provide all of the following documentation to support the eligibility of removing tree limbs, branches, stumps, or trees that are still in place:

- Specifics of the immediate threat with the U.S. National Grid (USNG) location and photograph or video documentation that establishes the item is on public property;
- Diameter of each item removed (measurement must be 2 feet up the trunk from the ground for stumps and 4.5 feet up for trees);
- Quantity of material to fill root-ball holes; and
- Equipment used to perform the work.

3. Hazardous Materials

Removal and disposal of pollutants and hazardous substances are eligible. Eligible activities include:

- Separation of hazardous materials from other debris
- Specialized procedures for handling and disposing of hazardous materials
- Control or stabilization of the hazardous material
- Pumping and treating water contaminated with the hazardous material
- Clean-up and disposal of the hazardous material

Testing for contaminants in water, air, or soil necessary to ensure elimination of the immediate threat is eligible, but testing for the purpose of long-term cleanup actions is not eligible.

The Applicant must comply with Federal, State, Territorial, Tribal, and local government environmental requirements for handling hazardous materials. Before handling or disposing of hazardous materials, the Applicant should contact the appropriate Federal, State, Territorial, or Tribal agency and obtain required permits. Additionally, appropriate certified hazardous waste specialists should handle, capture, recycle, reuse, or dispose of hazardous materials. When providing PA funding for work involving the handling of hazardous materials, FEMA must ensure compliance with the Resource Conservation and Recovery Act (RCRA).

Additionally, the Comprehensive Environmental Response Compensation and Liability Act (CERCLA) authorizes the Federal Government to respond directly to releases or threatened releases of hazardous substances that may endanger public health or the environment. Under CERCLA and the Clean Water Act (CWA), the U.S. Environmental Protection Agency (EPA)[171] and the U.S. Coast Guard (USCG) have the authority to respond to actual or potential discharges of oil, hazardous substances, pollutants, and contaminants that may present an imminent and substantial danger to public health or welfare. EPA has responsibility for responses in the inland

[171] See Recovery Policy 9523.8, *Mission Assignments for ESF#10*, for discussion on U.S. Environmental Protection Agency (EPA) and U.S. Coast Guard (USCG) authority with respect to removal of hazardous waste: www.fema.gov/media-library/assets/documents/136089.

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zone[172] and the USCG has responsibility for responses in the coastal zone.[173] Response actions may include containment, stabilization, decontamination, collection (e.g., orphan tanks, drums), and disposal.

4. Waterways

Debris removal from waterways that is necessary to eliminate the immediate threat to life, public health and safety, or improved property is eligible. Removal of debris in a waterway that does not meet this criterion is not eligible, even if the debris is deposited by the incident.

EPA and USCG have the specific authority to remove hazardous materials, as described in the previous section. EPA is responsible for removing such material from inland water zones and USCG is responsible for coastal water zones.

(a) Navigable Waterways

If the Applicant has legal responsibility for maintenance of a navigable waterway, removal and disposal of debris that obstructs the passage of vessels is eligible to a maximum depth of 2 feet below the low-tide draft of the largest vessel that utilized the waterway prior to the incident. Any debris below this zone is not eligible unless it is necessary in order to remove debris extending upward into an eligible zone.

If a tree is still rooted to an embankment and is floating or submerged, the cost to cut the tree at the water's edge is eligible.

Debris removal from federally maintained navigable waterways is ineligible. USCG and the U.S. Army Corps of Engineers (USACE) have specific authorities for removal of hazardous substances, vessels, and other obstructions from federally maintained navigable waterways.

(b) Non-navigable Waterways, Including Flood Control Works and Natural Waterways

Debris deposited by the incident may obstruct a natural waterway (that is, a waterway that is not improved or maintained) or a constructed channel, including flood control works. In these cases, removal of the debris from the channel is eligible if the debris poses an immediate threat, such as when the debris:

- Obstructs, or could obstruct, intake structures;
- Could cause damage to structures, such as bridges and culverts; or
- Is causing, or could cause, flooding to improved public or private property during the occurrence of a 5-year flood.

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[172] The inland zone is the environment inland of the coastal zone, excluding the Great Lakes and specified ports and harbors on inland rivers. Precise boundaries are identified in Federal regional contingency plans.

[173] The coastal zone includes coastal waters (including the lands therein and thereunder) and the adjacent shorelands (including the waters therein and thereunder), strongly influenced by each other and in proximity to the shorelines of coastal States, including islands, transitional and intertidal areas, salt marshes, wetlands, and beaches.

Removal of the obstruction is eligible even in streams where debris removal would also be eligible under the NRCS Emergency Watershed Protection Program (EWP)[174] unless NRCS provides assistance for the debris removal. However, debris removal from flood control works that are under the specific authority of NRCS is not eligible for PA funding, even if NRCS does not have sufficient funding or does not provide assistance.

For flood control works that are eligible for the USACE Rehabilitation and Inspection Program (RIP),[175] debris removal is eligible for PA funding. USACE does not reimburse Applicants for debris removal, but conducts this activity directly when necessary.

NRCS EWP and USACE RIP

The **NRCS EWP** is an emergency recovery program designed to relieve imminent hazards to life and property caused by floods, fires, windstorms, and other natural occurrences. Activities include, but are not limited to, providing financial and technical assistance to:

- Remove debris from stream channels, road culverts, and bridges
- Reshape and protect eroded banks
- Correct damaged drainage facilities
- Establish cover on critically eroding lands
- Repair levees and structures
- Repair conservation practices

The **USACE RIP** provides rehabilitation assistance for flood risk reduction structures.

(c) Identifying Debris Impact Locations

The Applicant is responsible for identifying debris deposited by the incident that poses an immediate threat. Random surveys to look for debris, including surveys performed using side scan sonar, are not eligible. However, if the Applicant identifies an area of debris impacts and demonstrates the need for a survey to identify specific immediate threat, FEMA may provide PA funding for the survey in that location, including the use of side scan sonar.

(d) Documentation

For FEMA to determine that debris removal from waterways is eligible, the Applicant must provide documentation that:

- Establishes legal responsibility;
- Includes the basis of the immediate threat determination;
- Identifies locations, types, and quantities of debris; and
- Demonstrates the debris claimed was deposited by the incident and was not pre-existing.

5. Privately Owned Vehicles and Vessels

Removal of privately owned vehicles and vessels is eligible if all of the following conditions are met:

- The vehicle or vessel blocks access to a public-use area;
- The vehicle or vessel is abandoned and the Applicant is unable to identify the owner;
- The Applicant follows applicable State, Territorial, Tribal, and local government ordinances or laws for private vehicle or vessel removal; and
- The Applicant verifies the chain of custody of the vehicle or vessel.

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[174] See www.nrcs.usda.gov/wps/portal/nrcs/main/national/programs/landscape/ewpp.
[175] See www.usace.army.mil/Missions/CivilWorks/LeveeSafetyProgram/LeveeInspections.aspx.

A limited timeframe for vehicle and vessel storage is eligible if it is necessary to remove the item prior to being able to identify the owner. If the owner is subsequently identified, the Applicant must return to FEMA the Federal share of any funds it recovers for storage costs.

6. Debris Removal from Private Property (Requires Prior FEMA Approval)

In limited circumstances, based on the severity of the impact of an incident, FEMA may determine that debris removal from private property is eligible under the PA Program. In making its determination, FEMA evaluates whether the impacts of debris on private property affect the general public in that community and whether the Applicant has legal authority to perform the work.

If debris on private property is so widespread that it threatens public health and safety or the economic recovery of the community, FEMA may provide PA funding for debris removal from private property. This debris removal must be in the public interest, not merely benefiting an individual or a limited group of individuals within the community.[176]

Clarification of Demolition versus Debris

If more than one wall of a structure is standing, FEMA considers the removal of that structure to be demolition and not debris removal. Demolition is subject to additional documentation to determine eligibility and must comply with Chapter 2:VI.B.16.

In such cases, FEMA works with the State, Territorial, Tribal, and local governments to designate specific areas where debris removal from private property, including private waterways, is eligible.

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(a) Written Request

Prior to commencing work on private property, the Applicant must submit a written request and receive approval from FEMA. The written request must include:

- A public interest determination;
- Documentation supporting the Applicant's legal authority to remove the debris; and
- Indemnification.

The Applicant needs to identify the specific properties or areas of properties for which it is requesting approval.

<u>Public Interest Determination</u>

The Applicant must provide the basis for the determination that removing the debris from the private property requested is in the public interest. The determination must be made by the State, Territorial, Tribal, county, or municipal government's public health authority or other public entity that has legal authority to make a determination that disaster-generated debris on private property in the designated area constitutes an immediate threat to life, public health, or safety, or to the economic recovery of the community at large.

[176] Stafford Act § 407, 42 U.S.C. § 5173, and 44 CFR § 206.224(b).

Additionally, the Applicant must submit its established, specific legal requirements for declaring the existence of a threat to public health and safety.

Legal Authority and Responsibility

The Applicant must provide documentation to confirm its legal authority and responsibility to enter private property and remove disaster-related debris. This includes:

- Citation of the law, ordinance, code, or emergency powers for which it is exercising its legal authority to remove debris from private property. The authority cited must be applicable to the condition representing the immediate threat and not merely the Applicant's uniform level of services. Typically, solid waste disposal ordinances are part of an Applicant's uniform level of services and not a justification for entering private property to remove disaster-related debris.
- Confirmation that a legally authorized official of the Applicant has ordered the exercise of public emergency powers or other appropriate authority to enter onto private property in the designated area to remove debris to address immediate threats to life, public health, and safety.

Indemnification

The Applicant must indemnify the Federal Government and its employees, agents, and contractors from any claims arising from the removal of debris from private property.

(b) FEMA Approval

FEMA will provide a written response to the request specifying any properties or area of properties for which debris removal is approved.

The Applicant must provide confirmation that it satisfied all legal processes and obtained permission requirements from the property owners (rights-of-entry) and agreements to indemnify and hold harmless the Federal Government before FEMA will provide PA funding for debris removal from private property.

(c) Debris Removal from Gated Communities

Debris removal from private residential property within a gated community is not eligible. However, if the debris is placed on a private road within the gated community, debris removal from the road may be eligible in accordance with the eligibility and request criteria listed in Chapter 2.VI.A.6(a).

(d) Debris Removal from Commercial Property

Removal of debris from commercial properties, such as industrial parks, golf courses, cemeteries, apartments, condominiums, and trailer parks, is generally ineligible because commercial enterprises are expected to retain insurance that covers debris removal. In very limited, extraordinary circumstances, FEMA may provide an exception. In such cases, the Applicant must meet the requirements of Chapter 2.VI.A.6(a) and (b).

(e) Duplication of Benefits

The Applicant should work with private property owners to pursue and recover insurance proceeds and credit FEMA the Federal share of any insurance proceeds received. In some

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circumstances, FEMA may provide IA assistance to individuals for debris removal; consequently, FEMA PA staff will coordinate closely with IA staff to ensure FEMA does not fund the same work under both programs.

7. Disposal

FEMA provides PA funding for various costs related to disposing of debris. The Applicant should dispose of debris in an efficient and cost-effective manner.

Vegetative debris is bulky and can consume a significant volume of landfill space. To minimize the use of landfill space, FEMA encourages the Applicant to reduce the volume of vegetative debris before burying. Costs to reduce vegetative debris using methods such as mulching, grinding, or burning are eligible.

Certain types of construction and demolition debris are reusable or recyclable. The Applicant should conserve landfill space by separating materials for reuse or recycling.

(a) Temporary Staging Sites

Establishing and operating a temporary staging site necessary for the purpose of debris separation and reduction is eligible. The cost to lease property is eligible. Additionally, if the terms of the lease require that the Applicant restore the leased property back to its condition prior to the Applicant's use, the costs related to that restoration are also eligible as part of the Category A project.

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(b) Hand-Loaded Trucks and Trailers

FEMA has determined that, for vegetative debris, hand-loaded trucks and trailers achieve approximately half the compaction level of mechanically loaded trucks and trailers. Therefore, FEMA only provides PA funding for 50 percent of the vegetative debris in hand-loaded trucks and trailers.

Similarly, trucks without solid tailgates cannot be compacted to full capacity. Therefore, FEMA will only fund a maximum of 85 percent of the debris in trucks without solid tailgates.

The Applicant must document the types and total quantity of debris that was hand-loaded and the types and total quantity of debris hauled in trucks without solid tailgates and provide this information to FEMA to ensure appropriate reductions are taken for this debris.

Eligible Tipping Fee Components

Eligible fixed costs include:

- Equipment
- Construction
- Permits
- Landfill closure
- Post-closure activities
- Amortized costs for facilities that support the landfill

Eligible variable costs include:

- Labor
- Supplies
- Maintenance
- Operation of utilities
- Operation of gas recovery systems

(c) Tipping Fees

Landfill tipping fees usually include fixed and variable costs, along with special taxes or fees assessed by the jurisdiction in which the landfill is located. Eligible tipping fee costs are limited to the variable and fixed costs that are directly related to landfill operations, such as recycling tax. The components of tipping fees that are not directly related to landfill operations, such as special taxes or fees related to other government services or

public infrastructure, are not eligible as part of the tipping fee. When providing PA funding for tipping fees, FEMA removes any ineligible components.

The Applicant may use a significant portion of the available capacity of a landfill to dispose of incident-related debris. Although FEMA provides PA funding for tipping fees, it cannot provide PA funding for the value of the loss of landfill capacity due to incident-related debris.

8. Monitoring Debris Removal Operations

For FEMA to determine the eligibility of debris removal operations, the Applicant must provide debris types, quantities, reduction methods, and pickup and disposal locations. FEMA requires the Applicant to monitor all contracted debris operations to document this information and ensure that its contractor removes eligible debris. If the Applicant does not monitor contracted debris removal operations, it will jeopardize its PA funding for that work.

The Applicant may use force account resources (including temporary hires), contractors, or a combination of these for monitoring. It is not necessary, or cost-effective, to have Professional Engineers or other certified professionals perform debris monitoring duties. FEMA considers costs unreasonable when associated with the use of staff that are more highly qualified than necessary for the associated work. If the Applicant uses staff with professional qualifications to conduct debris monitoring, it must document the reason it needed staff with those qualifications.

FEMA provides training to the Applicant's force account debris monitors upon request.

Eligible activities associated with debris monitoring include, but are not limited to:

- Field supervisory oversight
- Monitoring contracted debris removal at both the loading and disposal sites
- Compiling documentation, such as load tickets and monitor reports, to substantiate eligible debris
- Training debris monitors on debris removal operations, monitoring responsibilities and documentation processes, and FEMA debris eligibility criteria

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B. Emergency Protective Measures (Category B)

Emergency protective measures conducted before, during, and after an incident are eligible if the measures:

- Eliminate or lessen immediate threats to lives, public health, or safety; OR
- Eliminate or lessen immediate threats of significant additional damage to improved public or private property in a cost-effective manner.[177]

FEMA may require certification by Federal, State, Territorial, Tribal, or local government officials that a threat exists, including:

- Identification and evaluation of the threat
- Recommendations of the work necessary to cope with the threat[178]

[177] 44 CFR § 206.225(a)(3).
[178] 44 CFR § 206.225(a)(2).

Saving Lives and Protecting Public Health and Safety

The following is a list of emergency protective measures and costs that are eligible. These actions save lives or protect public health or safety. This list is not all-inclusive. Some of these actions are discussed in detail below.

- Transporting and pre-positioning equipment and other resources for response
- Flood fighting
- Emergency Operation Center (EOC)-related costs
- Emergency access
- Supplies and commodities
- Medical care and transport
- Evacuation and sheltering, including that provided by another State or Tribal government
- Child care
- Safety inspections
- Animal carcass removal[179]
- Demolition of structures[180]
- Search and rescue to locate survivors, household pets, and service animals requiring assistance
- Fire fighting
- Security, such as barricades, fencing, or law enforcement
- Use or lease of temporary generators for facilities that provide essential community services
- Dissemination of information to the public to provide warnings and guidance about health and safety hazards using various strategies, such as flyers, public service announcements, or newspaper campaigns
- Searching to locate and recover human remains
- Storage and interment of unidentified human remains
- Mass mortuary services

The following are eligible under limited circumstances based on specific criteria described in each of the referenced sections:

- Expenses related to operating a facility or providing an emergency service (see Chapter 2:VI.B.2)
- Mosquito abatement (see Chapter 2:VI.B.12)
- Repair of residential electrical meters (see Chapter 2:VI.B.13)
- Temporary relocation of essential services, including safe rooms for schools (see Chapter 2:VI.B.17)
- Snow-related activities when specifically authorized in the declaration (see Chapter 2:VI.B.18)

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[179] FEMA may fund the removal of animal carcasses as Category A if the removal is part of the Applicant's overall debris disposal operation as opposed to a separate and distinct operation.
[180] FEMA usually reimburses demolition of a public structure as part of the Permanent Work project to replace the facility.

Protecting Improved Property

The following is a list of eligible emergency protective measures to protect improved property,[181] some of which are discussed in further detail below. This list is not all-inclusive.

- Constructing emergency berms or temporary levees to provide protection from floodwaters or landslides
- Emergency repairs necessary to prevent further damage, such as covering a damaged roof to prevent infiltration of rainwater
- Buttressing, shoring, or bracing facilities to stabilize them or prevent collapse
- Temporary slope stabilization
- Mold remediation
- Removal and storage of contents from eligible facilities for the purpose of minimizing additional damage
- Extracting water and clearing mud, silt, or other accumulated debris from eligible facilities if the work is conducted expeditiously for the purpose of addressing an immediate threat (if the work is only necessary to restore the facility, it is Permanent Work, not Emergency Work)
- Taking actions to save the lives of animals that are eligible for replacement (see Chapter 2:VII.H.3(e))

Emergency Protective Measures on Private Property

In limited circumstances, FEMA may determine that emergency protective measures conducted on private property are eligible under the PA Program if:

- The immediate threat is widespread, affecting numerous homes and businesses in a community such that it is a threat to the health and safety of the general public in that community;
- The Applicant has legal authority to perform the work; and
- The Applicant obtained rights-of-entry and agreements to indemnify and hold harmless the Federal Government.

Examples of situations where this may occur include:

- Demolition of unsafe private structures that endanger the public
- Pumping of flooded basements
- Pumping of septic tanks or decontamination of wells causing a pollution threat
- Stabilizing a slope

Upon submittal of its claim, the Applicant must include the following support documentation for the work to be eligible:

- A detailed explanation documenting the Applicant's legal authority and responsibility to enter private property;
- The basis for the determination that a threat exists to the general public in that community; and

[181] 44 CFR § 206.221(d). Improved property means a structure, facility or item of equipment which was built, constructed or manufactured. Land used for agricultural purposes is not improved property.

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- Copies of the rights-of-entry and agreements to indemnify and hold harmless the Federal Government.

If the above criteria are not met, the private property owner may be eligible for assistance under FEMA's IA Programs. FEMA PA staff will coordinate closely with IA staff to ensure FEMA does not fund the same work under both programs.

Emergency Protective Measures Conducted by Private Nonprofit Organizations

For PNPs, eligible emergency protective measures are generally limited to activities associated with preventing damage to an eligible facility and its contents.

Emergency services are usually the responsibility of State, Territorial, Tribal, or local governments. Therefore, PNPs are generally not legally responsible for those services and FEMA does not provide PA funding to PNPs for the costs associated with providing those services. When a PNP provides emergency services at the request of, and certified by, the legally responsible government entity, FEMA provides PA funding through that government entity as the eligible Applicant. These services include:

- Fire and rescue activities
- Animal control
- Emergency ambulance service for evacuation
- 211 call services, if tracked and related to eligible work
- Other similarly urgent governmental services

PNPs that own or operate a medical or custodial care facility are eligible for direct reimbursement of costs related to patient evacuation. In limited circumstances, FEMA may also reimburse a PNP directly when essential components of a facility are urgently needed to save lives or protect health and safety, such as an emergency room of a PNP hospital or a PNP sewage or water treatment plant.

Additionally, if a PNP volunteer fire department operates based on established agreements with a State, Territorial, Tribal, or local government that designates the volunteer fire department as an official recognized entity legally authorized to provide emergency services in areas of coverage specifically designated by the State, Territorial, Tribal, or local government, FEMA may reimburse the volunteer fire department directly as an eligible Applicant.

1. Pre-positioning Resources

Costs related to pre-positioning resources specifically for the declared incident are eligible if the resources are used in the performance of eligible Emergency Work.

Pre-positioning resources for the purpose of evacuating, or providing emergency medical care during the evacuation period (such as ambulances and busses), is eligible even if those resources are not ultimately used, provided the staging of those resources was necessary and prudent based on the data at the time of staging.

2. Expenses Related to Operating a Facility or Providing a Service

The Applicant may incur additional costs related to operating a facility as a result of the incident because of an increased demand for the services the facility provides.

These additional costs are only eligible if:

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- The services are specifically related to eligible emergency actions to save lives or protect public health and safety or improved property;
- The costs are for a limited period of time based on the exigency of the circumstances; and
- The Applicant tracks and documents the additional costs.

Potentially eligible increased operating costs include, but are not limited to, costs for:

- Generators at a hospital or police station
- Water testing and treatment supplies in the immediate aftermath of the incident to counter a specific threat
- Fuel for increased use of a pumping station
- EOC facility costs (e.g., utilities)

Examples of ineligible operating costs include, but are not limited to, costs for:

- Patient care, except as noted in Chapter 2:VI.B.9
- Administrative activities
- Provision of food, except as noted in Chapter 2:VI.B.5, 7, and 8
- Obtaining electrical power from an alternate source
- Obtaining water from an alternate source
- School make-up days, including contracted costs for bus service for make-up days
- Provision of fuel for school bus service

For PNPs, operating costs are generally not eligible even if the services are emergency services, unless the PNP performs an emergency service at the request of and certified by the legally responsible government entity. In such case, FEMA provides PA funding through that government entity as the eligible Applicant.

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3. Emergency Public Transportation and Communication (DFA only)

A State, Territorial, Tribal, or local government may provide emergency communication services and public transportation when existing systems are damaged to the extent vital functions of community life or incident response are disrupted. The costs of these services are not eligible for reimbursement.[182] However, FEMA may provide short-term DFA for these services.[183]

4. Flood Fighting

Flood fighting activities may include, but are not limited to, sandbagging, dewatering behind a levee by breaching or pumping, or increasing the height of a levee. These activities are eligible if necessary to reduce an immediate threat to life, public health and safety, or improved property. These activities are eligible even if they are associated with a facility that is eligible for the USACE RIP, as USACE cannot reimburse Applicants for flood fighting. However, they are not eligible if associated with flood control works under the specific authority of NRCS.

The repair of deliberate breaches made by the Applicant to accomplish dewatering is eligible as part of the Emergency Work project.

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[182] Transportation costs for the purpose of evacuation are eligible for reimbursement as described in Chapter 2:VI.B.10.

[183] Stafford Act §§ 418 and 419, 42 U.S.C. §§ 5185 and 5186, and 44 CFR § 206.225(c) and (d).

Dewatering agricultural and natural areas behind levees and other water control structures is not eligible.

5. Emergency Operations Centers

The Applicant may use its EOC to direct and coordinate resources and response activities for a period of time. Response activities conducted at EOCs are eligible provided they are associated with eligible work. Costs associated with operating the EOC are also eligible, including, but not limited to:

- Increased utility costs
- Costs to lease a facility
- Supply costs
- Meal costs, as described in Chapter 2:VI.B.8

6. Emergency Access

There are times when the incident damages or impairs all access routes to an essential community service, or to a community with survivors. If the extent of damage makes these areas inaccessible, work related to providing access may be eligible. This includes debris removal from or emergency repairs to an access facility, such as a road or bridge. Eligible work is limited to that necessary for the access to remain passable.

Removal of debris from a privately owned facility, including those within gated communities, is eligible only when all of the following conditions are met:

- There is no other access point;
- Debris impedes emergency access;
- The Applicant completes all legal processes and obtains rights-of-entry and agreements to indemnify and hold harmless the Federal Government; and
- Work is performed by an eligible Applicant with legal authority to perform the work.

Emergency repairs to a privately owned facility, including those within gated communities, are eligible only when all of the following conditions are met:

- There is no other access point;
- Repair of the damage economically eliminates the need for temporary housing;
- The Applicant completes all legal processes and obtains rights-of-entry and agreements to indemnify and hold harmless the Federal Government; and
- Work is performed by an eligible Applicant with legal authority to perform the work.

Upon submittal of its claim, the Applicant must include documentation supporting that it met the conditions above in order for the work to be eligible.

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7. Supplies and Commodities

The purchase of supplies and commodities required for emergency protective measures is eligible.

Costs related to the Applicant purchasing supplies or using its own stock to perform Emergency Work are eligible and reimbursed in accordance with Chapter 2:V.D. Examples include, but are not limited to, safety equipment, personal protective equipment, radios, power tools, sand, and tarps.

Purchasing and packaging life-saving and life-sustaining commodities and providing them to the impacted community are eligible. Examples of such commodities include, but are not limited to, food, water, ice, personal hygiene items, cots, blankets, tarps, plastic sheeting for roof damage, and generators, as well as food and water for household pets and service animals. The cost of delivering these same commodities to unsheltered residents in communities where conditions constitute a level of severity such that these items are not easily accessible for purchase is also eligible. This includes food and water for household pets whose owners are in shelters.

The cost of leasing distribution and storage space for the commodities is also eligible.

8. Meals

Applicants often provide meals for emergency workers. Provision of meals, including beverages and meal supplies, for employees and volunteers engaged in eligible Emergency Work, including those at EOCs, is eligible provided the individuals are not receiving per diem and one of the following circumstances apply:

- Meals are required based on a labor policy or written agreement that meets the requirements of Chapter 2:V.A.1;
- Conditions constitute a level of severity that requires employees to work abnormal, extended work hours without a reasonable amount of time to provide for their own meals; or
- Food or water is not reasonably available for employees to purchase.

FEMA only reimburses the cost of meals that are brought to the work location and purchased in a cost-effective and reasonable manner, such as bulk meals. FEMA does not reimburse costs related to group outings at restaurants or individual meals.[184]

9. Medical Care

When the emergency medical delivery system within a declared area is destroyed, severely compromised or overwhelmed, FEMA may fund extraordinary costs associated with operating emergency rooms and with providing temporary facilities for emergency medical care of survivors. Costs associated with emergency medical care should be customary for the emergency

[184] FEMA reimburses meal costs as part of a contract in accordance with the contract terms provided it meets the requirements in Chapter 2:V.G.

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medical services provided. Costs are eligible for up to 30 days from the declaration date unless extended by FEMA.

Eligible medical care includes, but is not limited to:

- Triage and medically necessary tests and diagnosis
- Treatment, stabilization, and monitoring
- First-aid assessment and provision of first aid
- A one-time 30-day supply of prescriptions for acute conditions or to replace maintenance prescriptions
- Vaccinations for survivors and emergency workers to prevent outbreaks of infectious and communicable diseases
- Durable medical equipment
- Consumable medical supplies
- Temporary facilities, such as tents or portable buildings for treatment of survivors
- Leased or purchased equipment for use in temporary medical care facilities
- Security for temporary medical care facilities
- Use of ambulances for distributing immunizations and setting up mobile medical units

Terminology

Durable medical equipment is reusable medical equipment necessary for the treatment of an illness or injury or to prevent a patient's further deterioration. The equipment includes, but is not limited to:

- Oxygen equipment
- Wheelchairs
- Walkers
- Hospital beds
- Crutches
- Other medical equipment

Consumable medical supplies are medical supplies that are ingested, injected, or applied or are for one-time use only, including, but not limited to:

- Medical supplies
- Medications
- Diapers
- Adult incontinence briefs
- Bandages

Long-term medical treatment is not eligible. FEMA determines the reasonableness of these costs based on Medicare's cost-to-charge ratio (a ratio established by Medicare to estimate a medical service provider's actual costs in relation to its charges).

FEMA does not provide PA funding for these costs if underwritten by private insurance, Medicare, Medicaid, or a pre-existing private payment agreement.[185] The Applicant must take reasonable steps to provide documentation on a patient-by-patient basis verifying that insurance coverage or any other source funding including private insurance, Medicaid, or Medicare, has been pursued and does not exist for the costs associated with emergency medical care and emergency medical evacuations.

Ineligible costs include:

- Medical care costs incurred once a survivor is admitted to a medical facility on an inpatient basis
- Costs associated with follow-on treatment of survivors beyond 30 days of the declaration
- Administrative costs associated with the treatment of survivors

[185] Stafford Act § 312, 42 U.S.C. § 5155.

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10. Evacuation and Sheltering

Evacuation and sheltering of survivors are eligible activities. This includes household pets and service and assistance animals, but not exhibition or livestock animals.

Terminology

Household pets are domesticated animals that:

- Are traditionally kept in the home for pleasure rather than for commercial purposes
- Can travel in commercial carriers
- Can be housed in temporary facilities

Examples are dogs, cats, birds, rabbits, rodents, and turtles.

Household pets do not include reptiles (except turtles), amphibians, fish, insects, arachnids, farm animals (including horses), or animals kept for racing purposes.

Service animals are dogs that are individually trained to do work or perform tasks for people with disabilities or access and functional needs.

Assistance animals are animals that work, provide assistance, or perform tasks for the benefit of a person with a disability, or provide emotional support that alleviates identified symptoms or effects of a person's disability.

Although dogs are the most common type of assistance animal, other animals can also be assistance animals.

(a) Evacuation Including Accessible Transportation and Emergency Medical Transportation

Transportation of evacuees, household pets, service animals, luggage, and durable medical equipment is eligible. This includes emergency medical transportation. The mode of transportation should be customary and appropriate for the work required. Eligible activities include, but are not limited to:

- Transferring patients from inoperable, compromised, or overwhelmed eligible medical or custodial care facilities to another medical facility or to a shelter.
- Transferring patients back to original medical or custodial care facility, when appropriate.
- Transporting survivors, including shelterees, who require emergency medical care to and from the nearest existing or temporary medical care facility equipped to adequately treat the medical emergency. Transport may include emergency air, sea, or ground ambulance services if necessary.
- Use of equipment such as buses, trucks, or other vehicles (including accessible vehicles) to provide one-time transportation to evacuate survivors and their household pets and service and assistance animals to emergency shelters from pre-established pick-up locations. This includes stand-by time for drivers and contracted equipment while waiting to transport survivors.
- Paratransit transportation services, such as vans, minibuses, and buses, (including accessible vehicles) to transport senior citizens, individuals with disabilities (including mobility disabilities) or access and functional needs, individuals in nursing homes and assisted-living facilities, and homebound individuals impacted by the incident.
- Tracking of evacuees, household pets, service animals, luggage, and durable medical equipment. This includes the use of animal microchips for the purpose of tracking evacuated animals.
- Food and water provided during transport.
- Emergency medical care provided during transport, including emergency medical personnel and supply costs.
- Stabilization of individuals injured during evacuation.

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- Costs incurred in advance of an incident necessary to prepare for evacuations in threatened areas. Costs may include mobilization of ambulances and other transport equipment. Contracts for staging ambulance services must be part of the State, Territorial, Tribal, or regional evacuation plan. Costs of staging ambulances are eligible even if the incident does not impact the area normally served by those ambulances. PA funding for activating, staging, and using ambulance services ends when any of the following occurs:

  - FEMA, and the State, Territorial, or Tribal Government, determines that the incident did not impact the area where it staged ambulances;
  - Evacuation and return of medical patients and individuals with disabilities or access and functional needs is complete; or
  - The immediate threat caused by the incident has been eliminated and the demand for services has returned to normal operation levels.

  FEMA does not provide PA funding for ambulance services that are covered by private insurance, Medicare, Medicaid, or a pre-existing private payment agreement.[186]

(b) Sheltering

FEMA provides PA funding to State, Territorial, Tribal, and local government Applicants for costs related to emergency sheltering for survivors. Typically such sheltering occurs in facilities with large open spaces, such as schools, churches, community centers, armories, or other similar facilities. FEMA refers to these shelters as congregate shelters.

Generally, FEMA does not provide PA funding for emergency sheltering in non-congregate environments, which are locations where each individual or household has living space that offers some level of privacy (e.g., hotels, motels, casinos, dormitories, retreat camps, etc.). In limited circumstances, such as when congregate shelters are not available or sufficient, FEMA may reimburse costs related to emergency sheltering provided in non-congregate environments. FEMA's Assistant Administrator for Recovery has the authority to approve this policy exception. The Applicant must submit a request for PA funding for costs related to emergency, non-congregate sheltering and obtain FEMA approval prior to sheltering survivors in non-congregate facilities. At a minimum, the Applicant should include the following information in its request:

Transitional Sheltering Assistance Program

FEMA's Transitional Sheltering Assistance program provides short-term lodging to eligible survivors who, after an evacuation, cannot return to their homes for an extended period of time because their community is either uninhabitable or inaccessible as a result of the incident.

FEMA implements and manages Transitional Sheltering Assistance directly through a contract agent.

- Justification for the necessity of non-congregate sheltering;
- Whether the State or Tribal Government has requested Transitional Sheltering Assistance;

[186] Stafford Act § 312, 42 U.S.C. § 5155.

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- The type of non-congregate sheltering available and which type the Applicant intends to utilize;
- An analysis of the available options with the associated costs of each option; and
- The time frame requested (i.e., date of activation and length of time).[187]

FEMA will limit any approval to that which is reasonable and necessary to address the needs of the event (generally no more than 30 days). FEMA determines the eligible costs based on the contractual agreement, including reimbursement for repairing damage if it is the Applicant's legal responsibility based on the agreement. The Applicant must obtain FEMA approval for any time extensions, which should include a detailed justification for the continued need and a revised analysis of options, including the costs for each option.

If FEMA approves the request, the Recipient will need to maintain tracking mechanisms to provide sufficient data and documentation to establish eligibility (including the need for non-congregate sheltering resulting from the disaster, reasonableness, and costs). Sufficient documentation includes:

- The number of non-congregate shelterees:
  - By age groups 0-2, 3-6, 7-12, 13-17, 18-21, 22-65, and 66+;
  - With disabilities or access and functional needs;
  - Registered for assistance from FEMA's IA Programs; and
  - Referred to State or non-governmental organization programs for assistance.
- Number of household pets, and assistance and service animals sheltered and the type of shelter provided (e.g., stand alone, co-located, or co-habitational;
- Length of stay per "household unit;" and
- Number of meals and other services provided.

As with any activity, lack of full documentation may result in FEMA determining that some or all of the costs are ineligible.

Eligible costs related to sheltering include, but are not limited to, the items listed below, as necessary based on the type of shelter and the specific needs of the shelterees. If any of the items listed are donated, including labor, the Applicant may offset the non-Federal share of its eligible Emergency Work projects in accordance with Chapter 2:V.L. Sheltering and caring for household pets is only eligible while the pet owner is in an emergency shelter.

Shelter Facility Costs

- Facility lease or rent, including space for food preparation
- Utilities such as power, water, and telephone
- Minor facility modifications if necessary to make the facility habitable, compliant with the Americans with Disabilities Act (ADA), functional as a child care facility, or functional as an animal shelter
- Restoration to return the facility to its condition prior to use
- Generator costs
- Secure storage space for medical supplies

[187] 44 CFR §§ 206.225(a)(2) and 206.202(c) and (d).

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If an eligible State, Territorial, Tribal, or local government Applicant owns or leases the shelter facility, and a volunteer agency operates the shelter, the facility costs described above are eligible. However, the labor costs for the volunteer agency's workers are not eligible (except as a donated resource in accordance with the criteria in Chapter 2:V.L).

Shelter Staff Costs

- Medical staff
- Personal assistance service staff
- Veterinary staff
- Public Information Officer
- Social workers
- Food service workers
- Custodial and facilities staff
- National Guard personnel (See Chapter 2:V.J)

Shelter Supplies and Commodities

- Hot and cold meals, snacks, beverages, and related supplies for survivors
- Cooking and serving supplies
- Food, water, and bowls for household pets and service and assistance animals
- Durable medical equipment
- Consumable medical supplies
- Medication for animal decontamination and parasite control
- Infant formula, baby food, and diapers
- Refrigerators, microwaves, and crock pots
- Cots, cribs, linens, blankets, pillows, tables, and chairs
- Crates, cages, leashes, and animal transport carriers
- Personal hygiene kits with items such as shampoo, soap, toothpaste, a toothbrush, towels, and washcloths
- Animal cleaning tables and supplies
- Televisions or radios – one per 50 shelterees
- Basic cable service
- Computers – one per 25 shelterees
- Internet service
- Washers and dryers – one of each per 50 shelterees
- Toys and books

Shelter Services

Shelter services are eligible for the time the facility is actively used to shelter survivors.

- Shelter management
- Supervision of paid and volunteer staff
- Cleaning the shelter, linens, and animal crates
- Shelter safety and security

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- Use of equipment, such as ambulances, buses, trucks, or other vehicles, to provide sheltering support
- Phone banks for survivors
- Care for survivors with disabilities or access and functional needs, including the provision of the following personal assistance services:
    - Grooming, eating, walking, bathing, toileting, dressing, and undressing
    - Movement between a cot and wheelchair (transferring)
    - Maintaining health and safety
    - Taking medications
    - Communicating or accessing programs and services
- Emergency medical and veterinary services for sheltered survivors, household pets, and service and assistance animals, including:
    - Emergency and immediate life stabilizing care, including necessary prescriptions (not to exceed 30-day supply)
    - Triage, medically necessary tests, diagnosis, treatment, stabilization, and monitoring
    - First-aid assessment
    - Provision of first aid and health information
    - Care for evacuees with chronic conditions
    - Administering vaccinations to shelterees and workers for transmissible or contagious diseases, including, but not limited to, tetanus and hepatitis
    - Administering vaccinations to household pets, and service and assistance animals, for transmissible or contagious diseases, including, but not limited to, Bordetella (kennel cough)
    - Medical waste disposal
    - Mental-health care
    - Outpatient costs for sheltered survivors requiring emergency life-sustaining treatment not available at the shelter for the period of time that a survivor is housed in a congregate shelter. Eligible outpatient services are limited to:
        - Physician services in a hospital outpatient department, urgent care center, or physician's office;
        - Related outpatient hospital services and supplies, including X-rays, laboratory and pathology services, and machine diagnostic tests; and
        - Local professional transport services to and from the nearest hospital equipped to adequately treat the emergency.
- Sheltering self-evacuees (self-evacuee transportation costs are not eligible)
- Costs paid to the American Red Cross (ARC) or other Non-Governmental Organizations (NGO) to operate shelters under a written agreement [costs that ARC or other NGOs incur under their own authorities (i.e., independent of any Federal, State, Tribal, or local request) are not eligible for reimbursement]

(c) Child Care Services

FEMA reimburses State, Territorial, Tribal, and local governments for the cost of providing licensed child care services to support sheltered populations. This includes the cost of the labor, facility, supplies, and commodities. Additionally, FEMA may provide PA funding for the cost of

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child care services that the eligible Applicant provides to other survivors, and beyond the period of emergency sheltering, with certification that temporary child care is necessary to meet immediate threats to life, public health and safety, or property.

Child care includes services such as:

- Day care for children
- Before- and after-school care

The Applicant may provide these services within a shelter facility or in a separate facility, as appropriate. FEMA PA staff will coordinate with IA staff to ensure there is no duplication with IHP assistance.

(d) Host-State or Host-Tribe Evacuation and Sheltering

If the impacted State or Tribe (Impact-State or Impact-Tribe)[188] has evacuation and sheltering needs beyond its ability to address within its jurisdictional area, it may request assistance either from another State or Tribal Government (Host-State or Host-Tribe)[189] through mutual aid agreements such as EMAC, or from FEMA.

If the Impact-State/Tribe requests assistance directly from another State or Tribal Government, FEMA reimburses costs based on the mutual aid agreement as described in Chapter 2:V.H. FEMA may also provide PA funding to a Host-State/Tribe directly, even if the Impact-State/Tribe already requested assistance directly from that Host-State/Tribe, provided that:

- The Host-State/Tribe agrees to accept evacuees based on need—without restriction;
- The Host-State/Tribe makes at least 10 percent of its normal day-to-day sheltering capacity available;
- An authorized official from the Host-State/Tribe transmits a written agreement of these two terms to FEMA; and
- The Governor or Tribal Chief Executive of the Host-State/Tribe signs the FEMA/Host-State or FEMA/Host-Tribe Agreement pursuant to the terms and conditions in 44 CFR § 206.44, FEMA-State Agreements, to establish the Host-State/Tribe as the Recipient.[190]

If the Impact-State/Tribe requests assistance from FEMA, FEMA determines whether potential Host-States/Tribes have sufficient capability to meet some or all of the sheltering and evacuation needs of the Impact-State/Tribe. If FEMA determines a potential Host-State/Tribe has sufficient

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[188] Impact-State or Impact-Tribe means the State or Tribal Government for which the President declared an Emergency or Major Disaster and requested FEMA assistance because of a need to evacuate and/or shelter affected individuals outside the State.
[189] Host-State or Host-Tribe means a State or Tribal Government that by agreement with FEMA provides sheltering or evacuation support to evacuees from an Impact-State or Impact-Tribe.
[190] 44 CFR § 206.202(f)(1)(i).

capability and the Host-State/Tribe meets the three conditions described above, FEMA provides PA funding to the Host-State/Tribe directly.[191]

When FEMA provides PA funding directly to a Host-State/Tribe, FEMA reimburses 100 percent of the Host-State/Tribe's eligible costs, including straight-time and benefits of the Host-State/Tribe's permanent employees[192] so that they have no out-of-pocket costs. In these cases, the Impact-State/Tribe is responsible for the non-Federal cost share and must subsequently reimburse FEMA for the non-Federal cost share of the eligible costs incurred by the Host-State/Tribe. The non-Federal cost share is based on the Category B cost-share amount designated in the declaration. The Impact-State/Tribe cannot offset its non-federal cost share with the Host-State/Tribe's volunteer labor.

In addition to the evacuation and sheltering costs noted in Chapter 2:VI.B.10, FEMA also reimburses Host-States/Tribes for the following:

- Straight-time and benefits of entities' employees that provide assistance under a mutual aid agreement or a contract with the Host-State/Tribe such as a local government or PNP.
- Costs to provide the requested shelter capacity, even if the shelter was underused or not used at all.
- Costs related to arrest and incarceration of evacuees who commit unlawful acts in a Host-State/Tribe congregate shelter, including costs incurred by on-duty law enforcement officers in order to detain, take into custody, or make an arrest (costs of chemical tests, processing, charging, booking, and holding such persons are not eligible costs). Costs to transport a detainee back to the shelter is eligible if the individual was not charged.
- When patients in hospitals in the Impact-State/Tribe are evacuated, transported, and admitted into hospitals in the Host-State/Tribe through mission assignment with U.S. Department of Health and Human Services (HHS), and the patients are treated and discharged but require follow-on care while they await transport and shelters are not available, the costs that a Host-State/Tribe's hospital incurs for hotel rooms during patients' follow-on care until the patients can be transported back to the Impact-State/Tribe, provided that Medicare, Medicaid, or private insurance does not cover these costs.
- Bus or shuttle transport to pick up evacuees at the airport, train station, or bus terminal when the expected plane, train, or bus is re-routed, canceled, or rescheduled.
- Ambulance costs for hospital-to-hospital transfers, provided it is a transfer within the Host-State/Tribe.
- When the Impact-State/Tribe determines that it is safe for re-entry, it will coordinate with the Host-State/Tribe and FEMA to return evacuees, household pets, and service and assistance animals to the Impact-State/Tribe by air, rail, or bus. Return transportation costs are eligible along with food, water, and security during transport.
- Return transportation costs for family members of an Impact-State/Tribe evacuee who was admitted to a hospital after the congregate shelters close.
- When evacuees are discharged from a hospital after all congregate shelters have closed and transportation cannot be arranged for departure on the same day discharged, FEMA will reimburse up to five (5) nights of hotel lodging while awaiting return transport.

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[191] 44 CFR § 206.208(c)(3).
[192] 44 CFR § 206.202(f)(1)(ii).

- FEMA will reimburse a State agency from the Impact-State/Tribe for the transportation costs and related expenses to transport deceased evacuees and accompanying family members to the Impact-State/Tribe. The costs of State/Tribe-mandated embalming or cremation of the body prior to return are also eligible.

The Host-State/Tribe must determine whether any ambulance or medical service costs are covered by a patient's private insurance, Medicare, Medicaid, or a pre-existing private payment agreement as FEMA will deduct this amount from the Host-State/Tribe's eligible cost.

Fees that a Host-State/Tribe waives for the use of State parks by self-evacuees with recreational vehicles (RVs) are not eligible. Additionally, purchase and distribution of gas cards, bus passes, cash vouchers, debit cards, food vouchers, or direct payments to evacuees are not eligible.

11. Infectious Disease Event

The HHS Centers for Disease Control and Prevention (CDC) has primary authority to enable support and assistance to States, Territorial, or Tribal Governments in response to an infectious disease event. FEMA may provide assistance for the rescue, evacuation, and movement of persons; movement of supplies; and care, shelter, and other essential needs of affected human populations. Any assistance provided by FEMA in response to an infectious disease event is done in coordination with the CDC. The Office of Response and Recovery Fact Sheet FP 104-009-001, *Infectious Disease Event*, provides additional details.[193]

12. Mosquito Abatement

Mosquito abatement measures may be eligible when a State, Territorial, Tribal, or local government public health official validates in writing that a mosquito population poses a specific health threat as discussed further in Appendix G: Mosquito Abatement. FEMA consults with the CDC to determine the eligibility of mosquito abatement activities. FEMA only provides PA funding for the increased cost of mosquito abatement. This is the amount that exceeds the average amount based on the last 3 years of expenses for the same period.

13. Residential Electrical Meters

To reduce the number of survivors needing shelter, FEMA may provide limited PA funding to a State, Territorial, Tribal, or local government to repair residential electrical meters. To receive PA funding, the State, Territorial, Tribal, or local government must:

- Issue a finding of an immediate threat to safety due to loss of power caused by damaged meters or weather heads;
- Request participation in this program; and
- Receive FEMA approval for each identified property.

Only residential properties are eligible for this program. Commercial properties, including apartment complexes, are not eligible.

If approved, the applicable State, Territorial, Tribal, or local government will:

- Obtain a signed right-of-entry from each residential property owner;
- Take reasonable measures to document any known insurance proceeds;
- Contract with licensed electricians to perform electrical meter repair;

[193] www.fema.gov/media-library/assets/documents/99710.

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- Coordinate the work with the property owner, the power company, and the contracted electricians; and
- Be responsible for payment of the non-Federal share.

Eligible work is limited to that associated with repairing damage to items otherwise installed and maintained by a homeowner's electrician, including the weather head, service cable, and meter socket.

FEMA generally provides PA funding up to $800 per meter per residential dwelling. This amount includes equipment, materials, labor, and inspection fees to restore the meter to current local codes. It is also inclusive of limited debris clearance if necessary to access the damaged meter or weather head. Removal and disposal of the debris is not eligible. Eligible work is limited to that completed within 30 days from the declaration date unless extended by FEMA.

FEMA does not provide PA funding for repair costs if it is not safe to restore power to the residence or if other impacts would restrict the dwelling from being habitable even after power restoration.

FEMA PA staff will coordinate closely with IA staff to ensure FEMA does not fund the same work under both programs.

14. Safety Inspections

Post-incident safety inspections for public and private facilities are eligible, as well as posting appropriate placards (e.g., "red-tagging" a building that is unsafe).

The specific purpose of the inspection must be to determine whether the facility is safe for entry, occupancy, and lawful use. The Applicant must clearly substantiate that the purpose of the inspection was for safety and not to assess damage. Building inspections are not eligible if the purpose of the inspection is to:

- Determine whether the building is Substantially Damaged for the purpose of compliance with the community's floodplain management ordinance;
- Determine whether the building needs to be elevated or relocated, in accordance with the community's floodplain management ordinance; or
- Ensure that repairs are completed in accordance with the community's building code or standard.

15. Animal Carcasses

Removal and disposal of animal carcasses, including interim processing,[194] is eligible. If the removal and disposal is conducted as part of the overall debris removal operations, the work may be funded as Category A.

FEMA may require certification from the State, Territorial, Tribal, or local government health department, HHS, or the U.S. Department of Agriculture (USDA) that a threat to public health and safety exists.

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[194] Interim processing may include burning, incinerating, rendering, mounding, composting, or other pre-processing activities.

When few in number, smaller animal carcasses (e.g., rodents, skunks, or possums) do not usually pose an immediate threat to public health or safety. Removal and disposal of these carcasses is not eligible.

FEMA does not provide PA funding when another Federal agency has authority to provide assistance for carcass removal and disposal. NRCS has authority to remove animal carcasses and to provide technical assistance to the Applicant under its EWP program. The USDA's Farm Service Agency may provide assistance for farmland debris cleanup. The EPA and USCG have authority to provide technical assistance and to remove animal carcasses contaminated with oil, hazardous substances, pollutants, or contaminants.[195]

16. Demolition of Private Structures

Emergency demolition of structures located on private property may be eligible when partial or complete collapse is imminent and that collapse poses an immediate threat to the general public.

In some instances, restricting public access to an unsafe structure and the surrounding area, such as securing the area with a fence, is sufficient to alleviate the immediate threat and is more cost-effective than demolition. In these cases, demolition is not eligible.

If a structure is condemned prior to the incident, emergency protective measures related to that structure are not eligible.

FEMA must review the Applicant's demolition process for compliance with all applicable EHP laws, regulations, and EOs.

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(a) Conditions for Eligibility

For demolition to be eligible, the Applicant must:

- Certify that the structures are unsafe and pose an immediate threat to lives or public health and safety.
- Provide documentation to confirm its legal authority and responsibility to enter private property and demolish privately owned unsafe structures. This includes:
  - Citation of the law, ordinance, code, or emergency powers for which it is exercising its legal authority to demolish privately owned unsafe structures. The authority cited must be applicable to the structural condition representing the immediate threat and not merely the Applicant's uniform level of services.
  - Confirmation that a legally authorized official of the Applicant has ordered the exercise of public emergency powers or other appropriate authority to enter onto private property in the designated area in order to demolish privately owned unsafe structures and remove the resulting debris.
- Indemnify the Federal Government and its employees, agents, and contractors from any claims arising from the demolition of privately owned unsafe structures and removal of the resulting debris.

Before FEMA will provide PA funding, the Applicant must provide confirmation that it satisfied all legal processes and obtained permission requirements from the property owners (rights-of-

[195] See Recovery Policy 9523.8, *Mission Assignments for ESF#10*, for discussion on EPA and USCG authority with respect to removal of hazardous waste: www.fema.gov/media-library/assets/documents/136089.

entry) and agreements to indemnify and hold harmless the Federal Government. Additionally the Applicant must provide evidence that it obtained all necessary permits and complied with EHP requirements.

(b) Commercially Owned Structures

Demolition of structures owned by commercial enterprises, including businesses, apartments, condominiums, and mobile homes in commercial trailer parks, are generally ineligible as it is expected that the commercial enterprises retain insurance that can and will cover the cost of demolition.

(c) Eligible Work

If FEMA approves the demolition of private structures, eligible work associated with the demolition includes, but is not limited to:

- Capping wells
- Pumping and capping septic tanks
- Filling open below-grade structures, such as basements and swimming pools
- Testing for hazardous materials
- Securing utilities
- Obtaining permits and licenses
- Performing title searches

Fees for permits, licenses, and titles issued directly by the Applicant are not eligible unless the Applicant demonstrates that the fees are above and beyond its normal administrative costs. Overtime labor directly related to issuing these permits, licenses, and titles for facilities that are eligible for demolition is eligible.

The following work is also eligible and may be funded as Category A if the removal and disposal is conducted as part of the overall debris removal operations:

- Removing demolition debris, including personal effects
- Removing hazardous materials, such as asbestos and household hazardous waste

The Applicant should work with the property owner to pursue and recover insurance proceeds and credit FEMA the Federal share of any insurance proceeds recovered. In some circumstances, the property owner may be eligible for IA funding. FEMA PA staff will coordinate closely with IA staff to ensure FEMA does not fund the same work under both programs.

(d) Ineligible Work

Ineligible work associated with the demolition of private structures includes, but is not limited to:

- Removal or covering of concrete pads and driveways except for structures in a FEMA-funded buyout program
- Removal of slabs or foundations that do not present a health or safety hazard, except for structures in a FEMA-funded buyout program through the HMGP (the removal of Substantially Damaged structures and associated facilities acquired through HMGP may be eligible as Category A; see Chapter 2:VI.A)

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17. Temporary Relocation of Essential Services

If the Applicant provides essential community services at a facility that is unsafe, inaccessible, or destroyed as a result of the incident, temporarily relocation of these services to another facility is eligible.[196] Essential community services are those services of a governmental nature that are necessary to save lives, protect property and the public, and preserve the proper function and health of the community at large. These services differ from the list of eligible PNP essential social services.[197] FEMA evaluates the criticality of the service and safety of the facility to determine the need for temporary relocation.

(a) Eligible for Temporary Relocation: State, Territorial, Tribal, and Local Government Applicants

Essential community services provided by a State, Territorial, Tribal, or local government Applicant are eligible to be relocated. Services provided by these Applicants that are eligible for temporary relocation are:

- Police
- Fire protection
- Emergency services
- Medical care
- Education
- Election and polling
- Library
- Utility
- Other essential community services

Services provided in administrative and support facilities essential to the provision of the essential community service are also eligible for relocation.

If the Applicant provides the service at a leased, private facility prior to the incident, the service is still eligible to be relocated.

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(b) Eligible for Temporary Relocation: PNPs

Certain essential community services provided by PNPs are eligible to be relocated, provided the PNP owns and operates the facility in which the services are provided. These services differ from the list of eligible PNP essential social services.[198] PNP services eligible for temporary relocation include:

- Alcohol and drug rehabilitation
- Child care
- Custodial care
- Fire protection and emergency services
- Education
- Homeless shelters
- Libraries

[196] Stafford Act § 403(a)(3)(D), 42 U.S.C 5170b.
[197] Stafford Act § 102(11)(B), 42 U.S.C. 5122, and 44 CFR § 206.221(e)(7).
[198] Ibid.

- Medical care
- Utilities
- Other facilities that provide public health and safety services of a governmental nature

Services provided in support facilities, such as administration buildings and hospital laundry facilities, essential to the operation of such facilities may also be eligible for relocation.

(c) Ineligible for Temporary Relocation

Facilities that do not provide essential community services are ineligible for temporary relocation. These include facilities such as museums, zoos, community centers, shelter workshops, performing arts centers, recreation and parking facilities, athletic stadiums, research and warehouse facilities, and student union buildings.[199]

(d) Determining Eligibility for Temporary Relocation

FEMA determines the eligibility of relocating services to another facility based on the safety of the damaged facility as follows:

- If the facility can be made usable with the performance of emergency protective measures or minor repairs, a temporary facility may not be eligible.
- If the damage is to the extent that it cannot be occupied safely and restoration cannot be completed without suspending operations of the facility for an unacceptable period of time, then a temporary facility may be eligible.
- If the facility is not damaged but lacks a critical utility or operational item, such as potable water, electricity, or road access, and a temporary facility will restore services to the community before the restoration of the disrupted critical utility or operational item at the current site, then a temporary facility may be eligible.

The capacity of the temporary facility must not exceed the pre-disaster capacity of the facility that housed the displaced services. The Applicant must use the temporary facility to provide the eligible service to the same extent and manner as was provided prior to the incident.

Relocation to a site that requires ground disturbance or alteration of an existing property requires EHP review before the Applicant implements the action.

FEMA does not require the Applicant to obtain and maintain insurance for temporary facilities.

If the Applicant has a facility that does not meet eligibility requirements for temporary relocation and the facility's damage is to such an extent that the contents are at risk, FEMA may provide PA funding for temporary space to store the contents as an emergency protective measure if the space is:

- Limited to an area necessary to house the contents;
- Used solely for storage; and
- Not intended for public access, alternate office space, exhibits, or other purposes.

FEMA is not responsible for damage that may occur to contents in temporary storage.

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[199] Ibid.

(e) Lease, Purchase, or Construct

The Applicant may lease, purchase, or construct a temporary facility. The Applicant needs to make the decision to rent or purchase space and equipment based on the most cost-effective and practical option. The Applicant must provide FEMA with a cost analysis,[200] which should include at least three proposals with cost estimates based on the timeline to restore the original facility. Cost estimates for leasing a facility must account for the entire timeline of the project.

FEMA does not mandate that the Applicant pursue a specific option for a temporary facility, but FEMA only provides PA funding for the most cost-effective option.

If the Applicant relocates a service from a facility it owns, the lease costs of a temporary facility are eligible provided that leasing is the most cost-effective option. If the Applicant was leasing the damaged facility and had to temporarily relocate to another leased facility, the increase in rent is eligible.

Purchasing or constructing a temporary facility is eligible if FEMA confirms that it is the most cost-effective option. With the exception of modular or manufactured units, the Applicant must obtain FEMA approval prior to purchasing or constructing the facility.

(f) Safe Rooms for Temporary School Facilities

Funding for accessible safe rooms as part of a temporary school facility may be eligible if the damaged school contained a safe room or other space that served as a storm shelter and there are no other cost-effective, reasonable alternatives available to address the safety needs of the students and faculty. If approved, the safe room capacity is based on student population and the number of faculty who are expected to use the temporary school facility. The capacity of the safe room cannot exceed the pre-disaster capacity of the safe room in the damaged school. The safe room should be available no later than the opening day of classes at the temporary facility.

If the Applicant wishes to seek funding for a safe room as part of a temporary school facility, it needs to submit a written request and obtain prior approval from FEMA. The request needs to include:

- A description of the safe room or safe space that was used as a storm shelter prior to the incident;
- The population of students and faculty that need access to the safe room;
- Verification that no other cost-effective reasonable alternatives are within proximity that can be used as a safe space for the school population; and
- An indication that the Applicant will have the safe room installed and operational when school resumes and students occupy the temporary classroom space.

Safe rooms provided as part of a temporary school facility must comply with the requirements of *Safe Rooms for Tornadoes and Hurricanes, Guidance for Community and Residential Safe Rooms* (FEMA P-361).[201]

The timeframe for providing PA funding for the temporary safe room space coincides with the approved timeframe for providing PA funding for the temporary school facility.

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[200] 2 CFR § 318(d).
[201] www.fema.gov/media-library/assets/documents/3140.

(g) Temporary Relocation Costs

Eligible work or costs associated with the provision of temporary facilities include, but are not limited to:

- Rental or purchase of equipment necessary to continue the services in the temporary facility
- Reasonable alterations of the temporary facility, if required to make the space functional based on the pre-disaster use of the damaged facility
- Restoration of the temporary facility to its pre-disaster condition when no longer needed
- Moving expenses to and from the temporary facility
- Minimal life-safety or other building upgrades required by an applicable code or standard in effect at the time the temporary facility is purchased or leased
- Public outreach and messaging costs necessary to inform the public that the service will temporarily be provided at a different location

FEMA does not provide PA funding for utility, maintenance, or operating costs in a temporary facility, even if these costs increase.

(h) Time Limitations

The regulatory time limitation for temporary facilities (Emergency Work) is 6 months from the declaration date.[202]

Depending on the extent of damage to the facility, the Applicant may be unable to restore the facility to its pre-disaster design and function within 6 months. Normally, the Recipient has the authority to extend the deadline for Emergency Work for up to 6 additional months.[203] However, for temporary facilities, FEMA must approve any extensions to the project deadline.

FEMA considers the timeframe necessary to restore the damaged facility when evaluating time extensions for temporary facilities. If the Applicant requests funding for a temporary facility and knows at that time that the restoration of the original facility will exceed 6 months, FEMA may approve additional time and funding up to 12 months. If the Applicant needs additional time beyond this 12-month deadline, it must submit a written time extension request that includes the status of work and a timeline for completion.

FEMA only grants additional time if the Applicant begins construction on the damaged facility within 12 months of the declaration date, unless circumstances beyond the control of the Applicant prevented the start of construction within this 12-month timeframe.

(i) Disposition Requirements

If the Applicant purchased or constructed a temporary facility, it must return to FEMA the Federal share of the equity in the facility. The Applicant must report the equity to FEMA when the approved deadline has expired or when the facility is no longer needed for the authorized purpose, whichever occurs first.

If FEMA only funded a portion of the cost of the facility, the Applicant must return to FEMA the Federal share of FEMA's proportionate equity in the facility. The amount due FEMA is

[202] 44 CFR § 206.204(c)(1).
[203] 44 CFR § 206.204(c)(2)(ii).

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computed by applying FEMA's percentage of participation in the cost of the purchase or construction to the fair market value or sale proceeds, taking into consideration reasonable out-of-pocket costs related to the sale.

The Applicant may either retain the facility or sell it. If the Applicant disposes of real property (land or structures) acquired with PA funding and acquires replacement real property using funds from the same PA project, the net proceeds of the sale may be used to offset the cost of the replacement property.

18. Snow-Related Activities

When the President declares an incident as a Snowstorm or specifically authorizes snow assistance in a declaration for a Severe Winter Storm, FEMA provides PA funding for impacts related to snow, but the assistance is limited.[204] See Appendix H: Snow Assistance, for detailed information.

(a) Limited Time Period

Snow-related activities are eligible for a continuous 48-hour period to address the most critical emergency needs. Each Applicant designates the beginning of its 48-hour period. However, a State agency that conducts snow-related activities in multiple locations throughout a State, such as a Department of Transportation, may use different 48-hour periods for different locations.

Once FEMA approves a project for the Applicant's designated 48-hour period, the Applicant cannot change its selected period.

If the Applicant awards a contract for periods greater than the 48-hour period, PA funding is limited to the costs incurred during the 48-hour period.

The FEMA Assistant Administrator of the Recovery Directorate may extend the eligible period by 24 hours in counties, parishes, or Tribal Government areas where the snowfall exceeds the historical record snowfall by at least 50 percent.

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(b) Eligible Work

Eligible work includes:

- Snow-related activities (for limited time as discussed above):
  - Snow removal
  - Snow dumps
  - De-icing
  - Salting
  - Sanding of roads and other eligible facilities
- Other emergency protective measures (not restricted to the limited time), including but not limited to, search and rescue and sheltering

Limited snow-related activities necessary to carry out emergency protective measures, such as clearing snow in the *immediate* area of a downed power line, are eligible outside of the limited time period and in counties declared but not designated for snow assistance.

[204] 44 CFR § 206.227.

For Severe Winter Storm Declarations that do not specifically authorize snow assistance, FEMA only provides PA funding for limited snow-related activities that are necessary to perform otherwise eligible work. For example, snow removal necessary to repair downed power lines is eligible, while normal snow removal from roads is not eligible.

19. Emergency Berms on Beaches

If a natural or engineered beach has eroded to a point where a 5-year flood could damage improved property, cost-effective emergency protective measures on the beach that protect against damage from that flood are eligible.[205]

Eligible measures typically include the construction of emergency sand berms to protect against additional damage from a 5-year flood. Emergency sand berms are not intended to permanently restore the beach; they are intended only to provide protection from immediate threats. The Applicant may construct emergency berms with sand recovered from the beach or with imported sand. If the Applicant constructs the berm with imported sand, FEMA will only provide PA funding if the sand is from a source that meets applicable environmental regulations and one of the following circumstances exists:

- Recoverable quantities are insufficient; or
- State, Territorial, Tribal, or local government regulations prohibit placement of the recovered sand.

Based on the average expected erosion for a 5-year flood, FEMA only provides PA funding for emergency berms constructed with up to 6 cubic yards per linear foot of sand above the 5-year stillwater elevation or the berm's pre-storm profile, whichever is less. Stillwater elevation is the maximum storm-induced water-surface elevation. In some cases, placing sand below the 5-year stillwater elevation may be necessary to provide a base for the berm. The placement of that sand is also eligible as part of the emergency protective measure.

Placement of dune grass on an emergency berm is only eligible if it is required by permit and is an established, enforced, uniform practice that applies to the construction of all emergency berms within the Applicant's jurisdiction, regardless of the circumstance. The Applicant must include the dune grass placement cost in the berm construction cost when evaluating cost-effectiveness. Any maintenance of the dune grass after the initial installation is not eligible.

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20. Temporary Emergency Repair or Stabilization

Temporary emergency repair or stabilization of an eligible facility is eligible as Emergency Work if it eliminates or lessens an immediate threat.[206] Work performed under an exigent circumstance that restores the pre-disaster design and function of the facility in accordance with codes and standards is Permanent Work,[207] not Emergency Work.

Temporary emergency repair of a facility is not eligible if another Federal agency has the specific authority to provide assistance for the facility,[208] such as for:

- Federal-Aid highways – Federal Highway Administration (FHWA)

[205] 44 CFR § 206.226(j).
[206] 44 CFR § 206.201(b).
[207] 44 CFR § 206.201(j).
[208] 44 CFR § 206.226(a).

- Flood control works – USACE and NRCS

For Tribal Governments specifically, although the Bureau of Indian Affairs (BIA) or FHWA may have authority to provide temporary emergency repair of Tribal roads, such roads may be eligible for PA funding provided the Tribal Government does not receive funding from BIA or FHWA for the work.

21. Temporary Slope Stabilization

If a landslide or other slope instability is triggered by the incident and poses an immediate threat to life, public health and safety, or improved public or private property, emergency protective measures to stabilize the slope may be eligible.

FEMA only provides PA funding for the least costly option necessary to alleviate the threat. FEMA limits eligible stabilization measures to the area of the immediate threat, not the entire slope. Work must be reasonable relative to the size and scope of the area of instability.

FEMA may authorize funding for post-disaster inspections and limited geotechnical investigations to determine if the instability creates an unsafe condition that poses an immediate threat.

Eligible emergency protective measures include, but are not limited to:

- Temporary drainage measures
- Temporary ground protection to better stabilize the mass (rip rap, sheeting)
- Partial excavation at the head of a sliding mass to reduce its driving force
- Backfilling or buttressing at the toe of a sliding mass using measures such as gabions, rock toes, cribwalls, binwalls, and soldier pile walls
- Installation of barriers to redirect debris flow

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22. Mold Remediation

The incident may cause facilities to be inundated or exposed to wet and humid weather conditions for extended periods of time. These conditions may cause growth and spreading of mold in structures and on contents, causing threats to public health and increasing the repair cost.

The following remediation activities may be eligible as emergency protective measures:

- Wet vacuuming, damp wiping, or vacuuming with High-Efficiency Particulate Air (HEPA) equipment of the interior space
- Removal of contaminated gypsum board, plaster (or similar wall finishes), carpet or floor finishes, and ceilings or permanent light fixtures
- Cleaning of contaminated heating and ventilation (including ductwork), plumbing, and air conditioning systems or other mechanical equipment

Pre-remediation mold sampling is only eligible when the sampling reveals the presence of mold. Post-remediation sampling is eligible to confirm that remediation is complete.

The Applicant may use a variety of mold cleanup methods to remediate mold damage based on the extent of damage and type of damaged material. Appendix I: Mold Remediation, provides information for consideration when developing a SOW for mold remediation. The Applicant must follow applicable State, Territorial, Tribal, and local government guidelines for mold sampling and remediation.

FEMA only provides PA funding for mold sampling performed by an indoor environmental professional, such as a Certified Industrial Hygienist, Certified Indoor Environmental Consultant, or Certified Microbial Consultant. The indoor environmental professional should not be employed by the remediation company to avoid a conflict of interest. FEMA considers technical evaluations performed by licensed professionals when determining the eligibility of mold remediation.

For mold remediation to be eligible, mold must not be a result of poor facility maintenance or failure to take protective measures to prevent the spread of mold in a reasonable time after the incident. If the Applicant can document and justify why it did not take measures to prevent further contamination, or why measures taken were insufficient to prevent further damage, mold remediation may be eligible.

Examples of extenuating circumstances include:

- Disruption of power
- Facility is underwater
- Facility is inaccessible
- Heating, ventilation, and air conditioning (HVAC) equipment is damaged
- Insufficient resources to remediate the entire facility

FEMA evaluates whether the facility had pre-existing water infiltration conditions when determining whether mold remediation is eligible. For this evaluation, FEMA considers whether there is evidence of:

- Improperly sealed windows or exterior vents
- Standing water against an exterior wall
- Poorly maintained drains or gutters with rust or vegetative growth
- Absence of rain gutters
- Leaking ceiling tiles

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C. Damage Caused During Performance of Emergency Work (Category A or B)

An Applicant may damage improved property, supplies, or equipment during the performance of eligible emergency response activities or debris removal operations. The repair of this damage is eligible as part of that respective project if the damage was:

- Due to severe conditions resulting from the incident;
- Unavoidable; and
- Not due to improper or excessive use.

Replacement of damaged crops, trees, shrubs, or other ground cover is not eligible, unless the replacement meets the criteria in Chapter 2:VII.H.5.

For equipment damage, FEMA requires maintenance records to demonstrate that the equipment was regularly maintained and in good operational order prior to the incident, and details regarding when, where, and how the damage occurred.

For damage to private property, the repair is eligible if:

- The property is an easement and the Applicant is legally responsible for repairing the damage it causes to the easement; or

- The Applicant leased the property either for sheltering or for a temporary debris staging site, and the lease agreement establishes that the Applicant is legally responsible for the repair.

Damage caused by snow-related activities conducted outside of the authorized period, as described in Chapter 2:VI.B.18, is not eligible.

VII. Permanent Work Eligibility

Permanent Work (Categories C–G) is work required to restore a facility to its pre-disaster design (size and capacity) and function in accordance with applicable codes and standards.[209] Temporary emergency repair or stabilization for the purpose of eliminating or lessening an immediate threat is Emergency Work. All Permanent Work is subject to the eligibility of the facility as described in Chapter 2:III and shown in Figure 13.

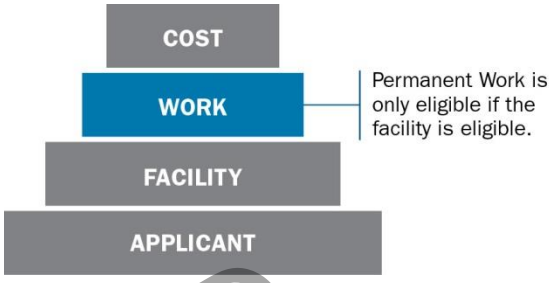

Figure 13. Permanent Work Eligibility

Pre-disaster design means the size or capacity of a facility as originally constructed or subsequently modified. It does not mean the capacity at which the Applicant was using the facility at the time of the incident if different from the most recent designed capacity.[210]

Example of Restoring to Pre-disaster Design

If a school designed for a capacity of 100 students is damaged beyond repair, the eligible funding for the replacement facility is limited to that necessary for 100 students, even if more than 100 students were attending the school prior to the event.

Pre-disaster function is the function for which the facility was originally designed or subsequently modified. For example, if an Applicant designed and constructed an administrative building, but later altered it in accordance with applicable construction codes or standards to use as a school, the pre-disaster function would be as a school. If the facility was serving an alternate function at the time of the incident, but was not altered to provide that function, FEMA provides PA funding to restore the facility either to the original pre-disaster function, OR pre-disaster alternate function, whichever costs less.[211]

Example of Restoring to Pre-disaster Function

If an Applicant is using an office building as a storage facility at the time of an incident, and it is less costly to restore the facility as a storage facility, only those repairs necessary to restore it as a storage facility are eligible.

Any special lighting or wall and floor finishes that are typical of an office building are not necessary for a storage facility and, therefore, are not eligible.

FEMA may approve changes to the pre-disaster design or construction method (including materials) if the changes are required due to access issues, site

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[209] 44 CFR § 206.201(j). Although this section of 44 CFR does not reference function as part of the definition of Permanent Work, 44 CFR § 206.203(d)(2) states that if the Applicant does not restore the function, it is an Alternate Project. See Chapter 2:VII.G. for discussion on Alternate Projects.
[210] 44 CFR § 206.201(k).
[211] 44 CFR § 206.226(k)(1).

conditions, or to tie in to existing infrastructure. The changes must not impact the capacity or function of the facility. The Applicant must show that the changes are reasonable based on the type and extent of restoration and are consistent with the Applicant's general construction practices.

In cases where ineligible damage, such as a pre-existing condition, if not repaired, may compromise repair of eligible damage, FEMA may make PA funding for repair of the eligible damage contingent upon the Applicant repairing the ineligible damage. For example, FEMA may determine that repairs to a damaged bridge deck are eligible. However, the deck cannot be repaired unless the Applicant replaces rotting timbers that support the deck.

PA funding is always based on pre-disaster size, capacity, and function. However, FEMA allows the Applicant to accept these funds as a capped amount if they wish to utilize the funds differently. Capped projects are detailed in Chapter 2:VII.G.

Hazard Mitigation Plan Requirement for Permanent Work Funding

The Recipient must have a FEMA-approved Hazard Mitigation Plan before FEMA will provide PA funding for any Permanent Work. The plan must show how the Recipient intends to reduce risks from natural hazards and must be updated every 5 years.

Tribal Governments must meet the requirements of 44 CFR § 201.7, Tribal Mitigation Plans. States must meet the requirements of 44 CFR § 201.4, Standard State Mitigation Plans.

The Recipients may also have an Enhanced Mitigation Plan that meets the requirements of 44 CFR § 201.5, Enhanced State Mitigation Plans.

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Environmental and Historic Preservation Considerations

The Applicant needs to make every effort to afford FEMA the opportunity to perform EHP reviews prior to the start of construction for any Permanent Work project. Proceeding with Permanent Work before FEMA completes EHP reviews jeopardizes PA funding.[212]

Permanent Work projects that restore a damaged facility essentially to pre-disaster design are excluded from NEPA review through a STATEX.[213] All others require NEPA review. Many qualify for one of the Categorical Exclusions (CATEXs), which are actions that typically have little or no impact on the environment.[214] Although many projects are statutorily excluded from NEPA review or covered by a CATEX, most projects still require review for compliance with other EHP laws, regulations, and EOs.

Projects that involve changes in the location, footprint, alignment, or size of a facility may have adverse effects on wetlands; floodplains, flood elevations, or upstream/downstream velocities; federally listed threatened and endangered species and their critical habitats; essential fish habitats; historic properties, including archaeological resources; and other environmental or historic resources. When a project has potential to impact the environment or historic properties, it may not qualify for a STATEX or CATEX and will require a higher level of analysis. The most common higher level analysis is referred to as an environmental assessment (EA).[215] In rare circumstances, a project may require an environmental impact statement (EIS),[216] the highest level of analysis, which requires a much more detailed analysis than an EA. FEMA is

[212] Stafford Act § 316, 41 U.S.C. 5159, and 44 CFR Part 19.
[213] Stafford Act § 316, 41 U.S.C. 5159.
[214] FEMA Instruction 108-1, Section 3.2 and DHS Instruction 023-01-001-01, Appendix A.
[215] FEMA Instruction 108-1, Section 3.2.
[216] Ibid.

responsible for NEPA compliance and identifying the required level of review.[217] FEMA may conduct the EA or EIS. If the Applicant chooses to conduct the EA or EIS, it must obtain FEMA approval prior to initiating the EA or EIS and submit the EA or EIS to FEMA for review, approval, and final determination prior to construction. When the Applicant conducts the EA or EIS FEMA reimburses the associated cost based on the cost share of the project.

FEMA is required to consult with Federal, State, Territorial, and Tribal government resource agencies before the Applicant begins work. These agencies may include the U.S. Fish and Wildlife Service (USFWS) and the National Marine Fisheries Service (NMFS) for impacts to federally-listed threatened and endangered species; and the SHPO or THPO for impacts to historic properties. If the Applicant begins construction work before FEMA completes its EHP review, the Applicant will jeopardize PA funding for that project. FEMA generally cannot conduct consultation with resource agencies after the Applicant initiates work on a project because those agencies lose the ability to consider alternatives that would avoid, minimize, or mitigate adverse effects to the environment or historic properties.

When EHP laws, regulations, or EOs require actions to mitigate adverse effects, the Applicant is responsible for all costs associated with performing the required mitigation measures, unless such actions are directly related to the restoration of disaster-related damage.

FEMA is responsible for reviewing any connected actions associated with a proposed project, even if FEMA is not funding the connected action. Actions are connected if they automatically trigger other actions that may require EISs; cannot or will not proceed unless other actions are taken previously or simultaneously; or are interdependent parts of a larger action and depend on the larger action for their justification.

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A. Requirement to Obtain and Maintain Insurance

Applicants that receive PA funding for permanent work to replace, repair, reconstruct, or construct a facility must obtain and maintain insurance to protect the facility against future loss.[218] This requirement applies to insurable facilities or property (buildings, contents, equipment, and vehicles). FP 206-086-1, *Public Assistance Policy on Insurance*, describes these requirements in detail.[219]

The Applicant must insure facilities with the types and extent of insurance reasonably available, adequate, and necessary to protect against future loss to the property.[220] The type of insurance refers to the hazard(s) that caused the damage and extent refers to the amount of insurance required, which is calculated based on the eligible costs prior to any reductions (including the non-Federal share reduction).

The Applicant is not required to obtain and maintain insurance on facilities with less than $5,000 in eligible costs (prior to any reductions).[221]

The Applicant may request that FEMA modify the insurance requirement when:

- The required insurance is not reasonably available,

[217] Public Law 91-190, 42 U.S.C. 4321–4347.
[218] Stafford Act § 311, 42 U.S.C. 5154, and 44 CFR 206 Subpart I.
[219] www.fema.gov/media-library/assets/documents/107564.
[220] Stafford Act § 311, 42 U.S.C. 5154, and 44 CFR 206 Subpart I.
[221] 44 CFR § 206.253(d).

- An alternative to the insurance requirement provides adequate protection against future loss to the property, or
- The required insurance is not necessary to protect against future loss to the property.

Additionally, FEMA does not require greater types and amounts of insurance than are certified as reasonably available, adequate, or necessary by the appropriate State Insurance Commissioner.[222] The State Insurance Commissioner cannot waive Federal insurance requirements, but may certify the types and extent of insurance reasonable to protect against future loss to an insurable facility.[223]

The Applicant may comply with the insurance requirement for both flood and non-flood hazards with coverage available through commercial property insurance, which may include blanket insurance policies, standard flood insurance policies, insurance pools, or a combination of these sources.[224] In some cases, with FEMA approval, the Applicant may comply with the insurance requirement using a self-insurance plan.[225]

If the Applicant does not comply with the requirement to obtain and maintain insurance, FEMA will deny or deobligate PA funds from the current disaster.

Insurance Reductions and Impact on Facility Eligibility in Subsequent Disasters

If the Applicant does not maintain the required insurance from a previous disaster, then the facility is not eligible for PA funding in a subsequent disaster, regardless of the hazard(s) that caused the damage.[226]

When the Applicant receives PA funding for a facility damaged by the same hazard in a subsequent disaster, FEMA reduces funding in this subsequent disaster by the amount of insurance required from the previous disaster. If FEMA or the State Insurance Commissioner certification modified the Applicant's insurance requirement, FEMA reduces funding by the modified insurance amount. If the Applicant's anticipated or actual insurance proceeds are higher than the amount of insurance required in the previous disaster, FEMA reduces funding by the anticipated or actual amount of insurance proceeds to avoid a duplication of benefits.

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B. Codes and Standards

FEMA provides PA funding to restore facilities on the basis of pre-disaster design and function in conformity with current applicable codes, specifications, and standards.[227]

1. Eligibility Criteria

Facility repairs and new construction may "trigger" upgrade requirements established by codes or standards. Upgrades required by Federal, State, Territorial, Tribal, or local repair or replacement codes or standards are eligible only if the code or standard:[228]

- Applies to the type of restoration required;

[222] 44 CFR § 206.253(c).
[223] 44 CFR §§ 206.252(d) and 206.253(c).
[224] 44 CFR § 206.253(b)(2).
[225] Stafford Act § 311(c), 42 U.S.C. 5154 (c), and 44 CFR Part 75.
[226] Stafford Act § 311(b), 42 U.S.C. 5154 (c), and 44 CFR § 206.253(f).
[227] Stafford Act § 406(e), 42 U.S.C. 5172(e), and 44 CFR § 206.226(d).
[228] 44 CFR § 206.226(d).

- Is appropriate to the pre-disaster use of the facility;
- Is reasonable, in writing, formally adopted by the State, Territorial, Tribal, or local government, and implemented by the Applicant on or before the declaration date, OR is a legal Federal requirement;
- Applies uniformly; and
- Was enforced during the time it was in effect.

Applies to the Type of Restoration Required

Codes and standards must apply to the type of restoration required. Codes and standards for new construction are often different than codes and standards for repair work. If FEMA determines a facility is eligible for replacement, compliance with current codes and standards for new construction is eligible. If FEMA determines a facility is not eligible for replacement, only code-required upgrades applicable to repairs are eligible.

A code or standard may include a trigger that requires:

- Upgrades to all structural components; or
- In addition to upgrading all structural components, bringing the non-structural components into conformance with current codes or standards for new construction.

If an upgrade to an entire structural or non-structural system within a building is triggered, the upgrade is only eligible if there is a direct relationship between the upgrade work and eligible damage.[229] Only upgrade work within the same system as the damage is eligible.

FEMA evaluates the eligibility of the work to upgrade or change the configuration of damaged systems for reasonableness with respect to the type and extent of damage.

Examples of Codes or Standards that Do Not Apply to the Restoration Required

An Applicant requests PA funding for the repair of a damaged building and the construction of a parking garage. The Applicant states that while there was no parking garage prior to the incident, zoning codes and other local ordinances require one. Because parking improvements have no relationship to the disaster-related repairs, they do not apply to the type of restoration required and are not eligible.

Similarly, if a code or standard that applies to new construction or the rehabilitation of an entire road requires the construction of paved shoulders, drainage swales, and berms, the construction of these improvements is not eligible for a project involving repairs to discrete damaged portions of the road shoulders.

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[229] 44 CFR § 206.223(a)(1).

Appropriate to Pre-disaster Use

Codes and standards must be appropriate to the pre-disaster use of the facility. FEMA determines the eligibility of code-required upgrades based on the facility's pre-disaster design or actual use at the time of the disaster. The least costly of the following is eligible:

- Pre-disaster use of the facility, if serving the same function for which it was originally designed; or
- Alternate use of the facility, if serving an alternate function at the time of the incident.

Example of a Code or Standard that Is Not Appropriate to the Pre-disaster Use of the Facility

The original design of a facility was a warehouse; however, the Applicant was using the facility as a classroom before the incident. Restoring the facility as a classroom in conformance with classroom codes or standards would not be eligible if it would be more costly than restoring the facility as a warehouse in accordance with code or standards applicable to a warehouse.

Reasonable

Codes and standards must be reasonable. When determining reasonableness, FEMA:

- Examines the general reasonableness of the code or standard and the trigger for application of the code or standard;
- Determines whether the upgrade and trigger relate to the type of restoration required by the damage and whether the upgrade and trigger are justified based on the extent of damage;
- Considers whether the upgrade and the trigger are technically defensible from an engineering perspective; and
- Determines whether the cost of the upgrade is reasonable.

FEMA may determine a very large upgrade based on a very low trigger to be unreasonable.

Example of Reasonableness

Installation of a code or standard-required new sprinkler system throughout a building is eligible if that building is replaced. However, installation of that sprinkler system is not eligible if the eligible work only involved repair of the building, even if required by the code or standard, unless it is reasonable based on the eligible repair.

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Written, Formally Adopted, and Implemented

Codes and standards must be in writing, formally adopted by the State, Territorial, Tribal, or local government, and implemented by the Applicant on or before the declaration date, OR be a legal Federal requirement, such as a requirement of ADA or seismic safety. An appropriate legislative body or regulatory authority within the jurisdiction must:

- Approve the code or standard;
- Make it a matter of public record; and
- Formally incorporate it into the building code or other applicable ordinance.

Example of a Standard that Is Not in Writing, Formally Adopted, and Implemented

FEMA approves funding to replace a culvert that was washed out by a flood. The State natural resources department denies the Applicant's permit application for replacing the culvert, and recommends the Applicant construct a bridge instead. The decision of the permitting officials is discretionary and not based on a written and formally adopted code or standard; therefore, the bridge construction is not eligible.

The code or standard must apply to the facility in question. For example, if a State has jurisdiction over a particular type of work and formally adopts a code or standard related to that work, a Tribal or local government in that State does not necessarily have had to formally adopt the code or standard for it to apply to its facility. The Tribal or local government meets the above requirement as long as it shows that it implements the code or standard consistently.

FEMA does not recognize codes or standards adopted by a PNP specifically for its facilities when determining whether compliance with codes or standards is eligible. FEMA also does not accept codes or standards adopted by agencies or divisions of State, Territorial, or local governments that are not authorized to set codes or standards within the broad governmental jurisdiction of the State, Territorial, or local government.

Applies Uniformly

Codes and standards must apply uniformly to all similar types of facilities, whether private or public, eligible or ineligible, in the Applicant's jurisdiction or (if applicable) in a particular hazard zone within its jurisdiction.

For FEMA to find that a code or standard and its triggers are uniformly applied, the code or standard must meet all of the following conditions. The code or standard must:

- Provide for uniform accountability in the event of noncompliance;
- Not be subject to discretionary enforcement by public officials; and
- Not allow for selective application.

Example of a Standard that Does Not Apply Uniformly

A local jurisdiction has authority over all facilities, both public and private. A statewide code or standard imposes seismic retrofit requirements for all public buildings, but not for privately owned buildings. The seismic retrofitting is not eligible as it does not apply uniformly to all similar types of facilities within the Applicant's jurisdiction.

A code or standard must meet three tests to demonstrate that it is not selectively applied:

- The upgrade is generally triggered regardless of the cause of damage and is also triggered for renovations or improvements.
- The code or standard is applied regardless of the source of funding for the work.
- The code or standard is not applied selectively based on the availability of funds.

Enforced

The code or standard must have been enforced during the time it was in effect. FEMA may provide PA funding for costs related to an upgrade based on confirmation of previous enforcement and in reliance on continued enforcement. If the local jurisdiction subsequently violates this criterion, no further work to comply with the code or standard is eligible within the local jurisdiction.

If FEMA determines a jurisdiction has had no reasonable opportunity to enforce the code or

Example of a Code or Standard that Was Not Enforced While in Effect

An Applicant requests funding to upgrade the foundation of several damaged trailers based on a code requirement applying to repairs to trailers and installation of new trailers. The Applicant installed several new trailers after the incident and did not use the code or standard-required foundation. The upgrades to the foundation of the damaged trailers are not eligible because the Applicant did not enforce the standard.

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standard, the upgrade may be eligible. A reasonable opportunity to enforce may be lacking when a code or standard is new or when a facility affected by the code or standard has not been damaged during the time the code or standard was in effect.

2. FEMA Required Minimum Codes and Standards

If the building is eligible for repair, replacement, or is being constructed as an improved or alternate project,[230] FEMA generally requires that the Applicant incorporate the natural hazard-resistant codes and standards and related provisions referenced in the most recent published edition of the International Code Council's (ICC) International Building Code (IBC), International Existing Building Code (IEBC), or International Residential Code (IRC) into the building design and construction.[231] This includes natural hazard-resistant provisions, such as tornado, wind, seismic, and flood as identified in the IBC, IEBC, or IRC regardless of the type of incident that caused the damage. In accordance with these codes and standards, the Risk Category of the eligible building determines the applicable tornado, wind, seismic, flood, snow, ice, and rain loads.[232] FEMA provides PA funding for the eligible increased cost associated with meeting these codes and standards at the cost-share for the disaster.

Generally, the IBC, IEBC, or IRC apply when a building:

- Is substantially damaged;[233]
- Suffered substantial structural damage;[234] or
- Is eligible for replacement in accordance with 44 CFR part 206.226(f).[235]

The determination of whether a code or standard is triggered may be made by:

- A building official or inspector;
- The Recipient's or Applicant's registered design professional; or
- Other appropriate and qualified individual.

FEMA will generally accept this determination, but may review the determination to ensure it is consistent with the above codes and standards and other PA policies. FEMA may deviate from this policy in circumstances where utilization of the codes or standards would create an extraordinary burden on the applicant or would otherwise be inappropriate for the facility.

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[230] This includes Alternative Procedure Projects. Per Stafford Act § 428, 42 U.S.C. § 5189f, and 44 CFR § 206.203(d), funding for these types of projects is capped at the cost to restore the facility to its pre-disaster design and function in accordance with codes and standards, including the required codes and standards referenced in this section, that would be applicable to the building if rebuilt as it existed.

[231] FEMA determined that these codes represent the minimum adequate standards which are generally necessary to protect the Federal investment of PA funding. Stafford Act §§ 323 and 406(e), 42 U.S.C. §§ 5165a, 5172, and 44 CFR § 206.400.

[232] Risk Category is defined in the International Building Code (IBC) as a categorization of buildings and other structures for determination of flood, wind, snow, ice and seismic loads based on the risk associated with unacceptable performance.

[233] Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

[234] Significant damage to the vertical elements of the lateral force-resisting system or the vertical gravity load-carrying components in accordance with the IBC or International Existing Building Code (IEBC).

[235] Disaster-related damage exceeds 50 percent of the cost to replace a facility to its pre-disaster design and function.

FEMA generally requires that the applicant incorporate these codes and standards in the design of eligible repair, replacement, or construction of the building even if they exceed local codes or standards or in instances where communities have not adopted a building code or standard. If the IBC, IEBC, or IRC have been adopted under another name (for example the California Building Code), it meets the natural hazard-resistant provisions in the model codes, then FEMA will consider the adopted code or standard compliant with the minimum codes and standards requirement. FEMA will evaluate the eligibility of locally adopted natural hazard-resistant building codes or standards that exceed those referenced in the IBC, IEBC, or IRC, based on the criteria found in Chapter 2:VII.B.1.[236]

When triggered by the eligible scope of work, natural hazard-specific requirements include, but are not limited to, the following:[237]

- In areas where tornado shelter design wind speeds are 250 mph or greater, the Applicant must incorporate a storm shelter or safe room (designed to ICC 500 standards) for elementary and secondary schools with an occupant load of 50 or more, EOCs, 911 call stations, fire stations, rescue stations, ambulance stations, and police stations.
- For wind-resistant requirements, the Applicant must incorporate applicable wind-resistant design and construction standards contained in the IBC, IEBC or IRC and its referenced standards [e.g., American Society of Civil Engineers (ASCE)/Structural Engineering Institute (SEI) 7].
- For seismic-resistant requirements, the Applicant must incorporate applicable seismic- resistant design and construction standards contained in the IBC, IEBC or IRC and its referenced standards (e.g., ASCE/SEI 7 and 41).[238]
- For flood-resistant requirements, the Applicant must incorporate applicable flood-resistant design and construction standards contained in the IBC, IEBC or IRC and its referenced standards (e.g., ASCE/SEI 7 and 24).[239]

FEMA also provides PA funding for costs associated with meeting the load requirements in the most recent IBC, IEBC, and IRC for snow, rain, and ice loads.

Costs related to conforming to these codes and standards are generally eligible. These codes and standards must apply to the type of restoration required (e.g., repair or construction), be appropriate to the pre-disaster use of the facility, and be reasonable.

Upon completion of the project, the Applicant must provide proof of compliance.[240] Acceptable forms of proof include, but are not limited to:

- A written certification by a registered design professional that the natural hazard-resistant design elements comply with IBC, IEBC, or IRC requirements; or
- A valid certificate of occupancy from the local building department that supports that

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[236] 44 CFR § 206.226(d).
[237] See www.fema.gov/building-code-resources for additional guidance on natural hazard-specific standard requirements.
[238] These seismic-resistant requirements are also mandated by EO 13717, *Establishing a Federal Earthquake Risk Management Standard.*
[239] Eligible projects involving substantial improvement or new construction in the flood hazard area may be required to meet the floodproofing or elevation requirements as described in 44 CFR § 9.11(d), or the IBC, IEBC, or International Residential Code (IRC), whichever is higher.
[240] Stafford Act § 323, 42 U.S.C. § 5165a, and 44 CFR § 206.402.

the project was constructed or repaired as designed.

Non-compliance may result in denial or de-obligation of PA funding for the facility. Therefore, the Applicant should work with its local building department and any other authorities having jurisdiction to ensure compliance with this and other Federal, State, Territorial, Tribal, and local government code and standard requirements.

3. Ineligible Upgrades

Upgrades recommended by design standards, guidelines, policies, industry practices, or other non-mandatory provisions are not eligible if the provisions do not meet all of the criteria noted in Chapter 2:VII.B.1. Upgrades that are deemed ineligible, but enhance a facility's ability to resist similar damage in a future incident, may be eligible as hazard mitigation. See Chapter 2:VII.C for further discussion.

4. Historic Preservation Compliance

(a) Federal Requirement

If the facility is listed in, or meets the criteria to be listed in, the National Register of Historic Places, and an applicable code or standard requires repair in a certain manner, costs associated with work to comply with that code or standard are eligible, even if repair costs exceed replacement costs. This is an exception to the regulatory requirement that when a facility is eligible for replacement, FEMA limits eligible costs to the less expensive of repairs or replacment.[241] (See discussion on repair versus replacement in Chapter 2:VII.D.)

(b) State, Territorial, or Tribal Government Requirement

If a State, Territorial, or Tribal historic building code or standard requires specific work be performed, FEMA evaluates the code or standard using the eligibility criteria in Chapter 2:VII.B.1. Most State historic building codes and standards encourage code officials to allow *less* intrusive alternatives to requirements of the prevailing codes or standards, but do not require any particular work be performed. As a result, the codes and standards usually fail to meet the eligibility criteria.

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5. Floodplain Management and Wetland Protection

When providing PA funding for a project in or impacting a floodplain or wetland, the following requirements apply. The terms in this section are defined in Chapter 2:VII.F.

(a) Minimum Requirement for Structures in a Floodplain

For any structure (walled or roofed buildings, including mobile homes and gas or liquid storage tanks)[242] that is built, replaced, or Substantially Improved in a Special Flood Hazard Area (SFHA), the Applicant must, at a minimum, either elevate or floodproof the lowest floor (including the basement) to or above the 100-year base flood elevation (BFE).[243]

If the structure houses critical actions and is in the 100-year floodplain, the Applicant must, at a minimum, elevate the lowest floor (including the basement) to or above the 500-year BFE.[244] If

[241] 44 CFR § 206.226(f)(2) and (3).
[242] 44 CFR § 9.4.
[243] 44 CFR § 9.11(d)(3)(i) and (iii).
[244] 44 CFR § 9.11(d)(3)(i).

the structure is non-residential, the Applicant may opt to floodproof to the required level instead of elevating.[245]

Similarly, if the structure houses critical actions and is in the 500-year floodplain, the Applicant must elevate the lowest floor (including the basement) to or above the 500-year flood level.[246] Again, if the structure is non-residential, the Applicant may opt to floodproof to the required level instead of elevating.[247]

Further, if the structure is substantially improved in a Coastal High Hazard Area, the Applicant must elevate the facility to the BFE (the 500-year level for critical actions) (including wave height) on open works (walls columns, piers, piles, etc.) and anchor it properly.[248] New construction is prohibited in a Coastal High Hazard Area.[249]

(b) Requirement for Communities Participating in the National Flood Insurance Program

A community that participates in the National Flood Insurance Program (NFIP) must adopt and enforce a floodplain management ordinance that meets or exceeds the minimum NFIP requirements.[250] Such an ordinance must contain construction requirements for new construction or Substantial Improvement of buildings located in a SFHA. In addition to other requirements, the ordinance must require that new or Substantially Improved buildings be elevated so that the lowest floor is at or above the BFE or floodproofed to a level equal to or above the BFE (some communities have more restrictive ordinances that require elevation or floodproofing to greater levels.)

Work required for compliance with the floodplain ordinance is eligible provided the ordinance meets the eligibility criteria for codes and standards and the Substantial Improvements are disaster-related repairs. If the cost to repair a facility in accordance with the floodplain ordinance is greater than the cost to replace the facility in accordance with the ordinance, the eligible cost is capped at the replacement cost.

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[245] 44 CFR § 9.11(d)(3)(iii).
[246] 44 CFR § 9.11(d)(3)(ii).
[247] 44 CFR § 9.11(d)(3)(iii).
[248] 44 CFR § 9.11(d)(2) and (7).
[249] 44 CFR § 9.11(d)(1)
[250] 44 CFR § 60.3.

6. Americans with Disabilities Act Access Requirements

(a) Federal Requirement

The ADA requires that any public, residential, or workplace facility be accessible to and usable by disabled persons.[251] FEMA provides PA funding for costs related to Federal ADA accessibility requirements based on the criteria below.

Accessibility Triggers for ADA-Relevant Repairs

An ADA-relevant repair is a repair that affects or could affect the usability of the facility by the disabled. This is referred to as an "alteration" in the ADA.

Only ADA-relevant repairs trigger accessibility requirements; not all repairs are ADA-relevant repairs. Repairs of structural components—flooring, walls, partitions, or load-bearing elements—are considered ADA-relevant repairs.

Alterations to windows, hardware, controls, electrical outlets, and signage and repair of façades (such as dry wall, plaster, and facial brick), whether interior or exterior, are not ADA-relevant repairs.

Activities such as normal maintenance, re-roofing, painting or wallpapering, asbestos removal, or changes to mechanical and electrical systems are not ADA-relevant repairs, unless they affect the usability of, or access to, an area containing a primary function.

Facilities Eligible for Replacement

When a facility is eligible for replacement, FEMA provides PA funding for compliance with reasonable accessibility requirements triggered by ADA in newly constructed facilities. FEMA provides PA funding regardless of whether the facility was in compliance prior to the incident, provided the Applicant was not cited for an ADA violation.

A new facility is not required to be fully compliant with ADA if the Applicant can demonstrate that it is structurally impractical to meet the requirements.

For some PNPs, exceptions are available for installation of elevators in small buildings less than three stories or less than 3,000 square feet per story. These exceptions do not apply to any publicly owned or operated facility.

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Facilities Eligible for Repair

For ADA-relevant repairs, FEMA provides PA funding for required ADA upgrades that have a reasonable and technically supportable relationship to the damaged elements of the facility.

Terminology

A **primary function area** is the area where a major activity occurs for which the facility is intended.

Examples include the dining area of a cafeteria, meeting rooms of a conference center, and public offices providing governmental services to the public.

In addition, when disaster-related and ADA-relevant repairs are made to a primary function area of the facility, FEMA provides PA funding to make the path of travel to the primary function area accessible to the maximum extent feasible, including facilities that serve the primary function area. Examples of facilities that serve the primary function area include restrooms, telephones, drinking fountains, pathways, and similar service facilities. Pathways include internal and external paths of travel, such as hallways, sidewalks, and parking lots.

[251] 42 U.S.C. 12101, et seq.

PA funding to make the path of travel and service facilities to a repaired primary function area accessible may not exceed 20 percent of the total cost of the repair of the primary function area in an ADA-compliant manner.

For calculation purposes, the total costs of the primary function area repair also include the repair costs of the roof, HVAC system, mechanical rooms, janitorial closets, locker rooms, and private offices directly associated with the repair of the primary function area.

If ADA-relevant repairs are made to areas that also happen to provide access to and usability of the repaired primary function area (damaged walls, stairs, corridors, and restrooms), the cost of those repairs are eligible costs as non-primary function areas and are not applied to the 20-percent capped amount.

When 20 percent is not adequate to meet ADA-accessible path-of-travel and service facility requirements, the Applicant must apply ADA access requirements to the maximum extent possible with the limited funds. The Applicant should make limited changes in the following order of priority:

- Accessible entrance
- Accessible route to the altered area
- At least one accessible restroom for each sex or single unisex restroom
- Phones
- Drinking fountain
- Other elements such as parking, storage, and alarms

If the Applicant was notified of being in violation of an ADA law or building code or standard prior to the incident and was required to bring the facility into compliance, then triggered accessibility requirements related to the violation are not eligible.

Repairs to non-primary function areas do not trigger the path-of-travel and service facility requirements. However, the Applicant must complete the repairs to the non-primary function area in an ADA-compliant manner.

The Applicant is not required by ADA to reconstruct non-damaged areas of a partially damaged facility for ADA access unless they are the path of travel or service facility to a repaired primary function area requiring ADA-relevant repairs.

If the Applicant triggers ADA requirements by engaging in repairs that are not eligible, the cost of those ADA changes are also not eligible.

Some special provisions apply when ADA requirements "threaten or destroy the historic significance of qualified historic buildings and facilities."[252] FEMA will address these provisions during its consultation with the SHPO or THPO and will incorporate them into the agreement regarding the repairs to the building.

(b) State, Territorial, Tribal, or Local Government Requirement

FEMA may provide PA funding for additional State, Territorial, Tribal, or local government ADA requirements. These requirements must meet the eligibility criteria for codes or standards, as described in Chapter 2:VII.B.1.

[252] 28 CFR § 36.405.

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7. Permit Requirements

If a Federal, State, Territorial, Tribal, or local government permitting agency requires additional work based on a code or standard that does not meet the eligibility criteria in Chapter 2:VII.B.1, the cost of the additional work is only eligible if the work:

- Does not change the pre-disaster size, capacity, or function of the facility;
- Applies to the type of repair or restoration required;
- Is reasonable based on the type and extent of damage; and
- Is an established, enforced, uniform practice that applies to all similar types of facilities within the Applicant's jurisdiction, regardless of the circumstance.

C. Hazard Mitigation

Hazard mitigation is any sustained action taken to reduce or eliminate long-term risk to people and property from natural hazards and their effects. FEMA has authority to provide PA funding for cost-effective hazard mitigation measures for facilities damaged by the incident.[253]

In addition to providing funding for hazard mitigation under the PA Program, FEMA also provides hazard mitigation funding under its Hazard Mitigation Assistance (HMA) programs. FEMA's Federal Insurance and Mitigation Administration administers the HMA programs, which are briefly described in Figure 14. The eligibility criteria, procedures, and timelines for implementation of the hazard mitigation measures funded under the HMA programs differ from the hazard mitigation measures funded under the PA Program.

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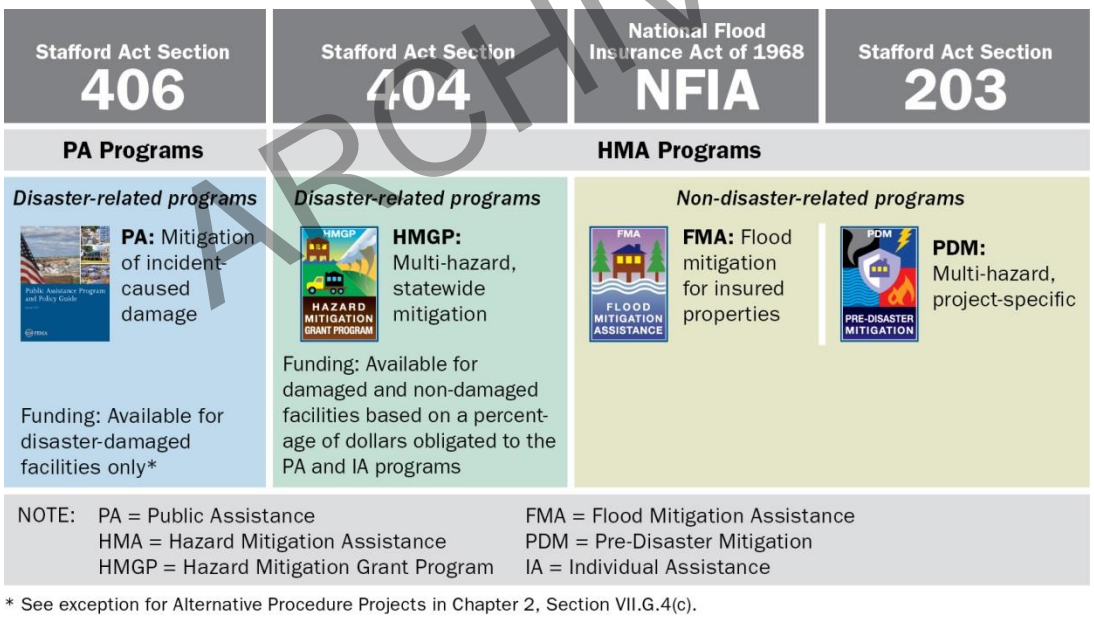

Figure 14. FEMA Hazard Mitigation Programs

FEMA commonly refers to PA-funded hazard mitigation as Section 406 hazard mitigation and mitigation funded under HMGP as Section 404 hazard mitigation. These references are based on the authorizing sections of the Stafford Act.

[253] Stafford Act § 406(e), 42 U.S.C. 5172 (e), and 44 CFR 206.226(e).

The Applicant may use both 406 and 404 mitigation funds to implement mitigation measures on the same facility, but not for the same work. The Applicant cannot use funds from one of these mitigation programs to meet the non-Federal cost share of work funded under the other mitigation program.

This document provides details regarding Section 406 hazard mitigation funding under PA. FEMA's *Hazard Mitigation Assistance Guidance* provides further details on the HMA programs.[254]

Section 406 Hazard Mitigation

FEMA evaluates proposed mitigation measures for cost-effectiveness, technical feasibility, and compliance with EHP laws, regulations, and EOs. In addition, FEMA ensures that the mitigation does not negatively impact the facility's operation or surrounding areas, or create susceptibility to damage from another hazard.

Mitigation measures must be cost-effective. FEMA considers mitigation measures to be cost-effective if any of the following criteria are met:

- The cost for the mitigation measure does not exceed 15 percent of the total eligible repair cost (prior to any insurance reductions) of the facility or facilities for which the mitigation measure applies.
- The mitigation measure is specifically listed in Appendix J: Cost-Effective Hazard Mitigation Measures, AND the cost of the mitigation measure does not exceed 100 percent of the eligible repair cost (prior to any insurance reductions) of the facility or facilities for which the mitigation measure applies.
- The Recipient or Applicant demonstrates through an acceptable benefit-cost analysis (BCA) methodology that the measure is cost-effective. FEMA's BCA software[255] provides appropriate BCA methodologies.

Many mitigation measures that do not meet the first two requirements above prove to be cost-effective based on a BCA. If the mitigation measure is not cost-effective based on the first two criteria, FEMA, the Recipient, and the Applicant will work together to develop a BCA to determine whether it is cost-effective.

A BCA is based on a comparison of the total eligible cost for the mitigation measure to the total value of expected benefits. Benefits include reductions in:

- Damage to the facility and its contents
- The need for emergency protective measures
- The need for temporary facilities
- Loss of function
- Casualties (typically included only for earthquake, tornado, and wildfire mitigation)

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[254] www.fema.gov/media-library/assets/documents/103279.
[255] www.fema.gov/benefit-cost-analysis.

To be eligible, the mitigation measures must directly reduce the potential of future, similar damage to the facility. Generally, eligible mitigation measures are those the Applicant performs on the damaged portion(s) of the facility. If the Applicant proposes mitigation measures that are distinct and separate from the damaged portion(s) of the facility, FEMA evaluates the proposal and determines eligibility on a case-by-case basis considering how the mitigation measure protects the damaged portion(s) of the facility and whether the mitigation measure is reasonable based on the extent of damage. Some examples of such measures include:

- Constructing floodwalls around damaged facilities
- Installing new drainage facilities (including culverts) along a damaged road
- Dry floodproofing both damaged and undamaged buildings that contain components of a system that are functionally interdependent (i.e., cases where the entire system is jeopardized if any one component of the system fails)

If FEMA determines mitigation measures to undamaged portions ineligible as 406 hazard mitigation, the Applicant may request HMGP (Section 404) funding from the State or Territory to provide protection to undamaged portions, while utilizing PA Program (Section 406) mitigation funds to provide protection to damaged portions.

Section 406 hazard mitigation opportunities usually present themselves during facility repair. However, in cases where the Applicant must repair a facility in an expedited manner, it may miss an opportunity to implement mitigation measures during repair. If the Applicant implements mitigation measures after the PA-funded repair is complete, the mitigation work may be eligible; however, FEMA will not provide PA funding for any duplicative work as a result of the subsequent mitigation.

In some instances, the Applicant may implement mitigation measures after the incident occurs but before the incident is declared or before FEMA has the opportunity to evaluate the measure for eligibility. In these cases, the mitigation work may still be eligible if it is cost-effective and FEMA confirms compliance with applicable EHP laws, regulations, and EOs.

Section 404 Hazard Mitigation Grant Program

The Recipient manages HMGP and is responsible for soliciting applications from State, Tribal, and local government agencies. Projects submitted to the Recipient must be in accordance with the Recipient's Hazard Mitigation Plan, address severe detrimental impacts, and have the greatest potential to reduce future losses. Eligible projects include acquisition of hazard-prone property, retrofitting existing buildings and facilities, elevation of flood-prone structures, infrastructure protection measures, and hazard mitigation planning. State, Tribal, and local government agencies should direct questions regarding HMGP to the State Hazard Mitigation Officer: www.fema.gov/state-hazard-mitigation-officers.

If FEMA approves mitigation funding and the Applicant does not complete the mitigation work, FEMA will deobligate the mitigation funds.

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D. Repair vs. Replacement

When evaluating whether a damaged facility is eligible for replacement, FEMA compares the repair cost with the replacement cost and evaluates the feasibility of repairing the facility.[256]

A facility is considered repairable when:

- The cost to repair the disaster-related damage does not exceed 50 percent of the cost to replace the facility based on its pre-disaster size, capacity, and function; and
- It is feasible to repair the facility so that it can perform the pre-disaster function as well as it did prior to the incident.[257]

Substantial Damage Determination

A floodplain manager's Substantial Damage determination (which is part of the NFIP eligibility process and described in Chapter 2:VII.B.5) is separate and distinct from FEMA's 50% Rule.

FEMA's eligibility determination for funding replacement is based on the 50% Rule regardless of a Substantial Damage determination.

The comparison of the repair cost to the replacement cost results in a fraction that expresses repair as a percentage of replacement. The percentage is calculated with the repair cost as the numerator and the replacement costs as the denominator. FEMA refers to this calculation as the "50% Rule."

1. Calculation

The repair cost (numerator) is the cost of repairing disaster-related damage only and includes costs related to compliance with codes or standards that apply to the repair of the damaged elements only (including federally required codes and standards).[258] The numerator does not include costs associated with:

- Upgrades of non-damaged elements even if required by codes or standards (e.g., elevation of an entire facility triggered by repair)
- Demolition beyond that which is essential to repair the damaged elements
- Site work
- Soft costs
- Contents
- Hazard mitigation measures
- Emergency Work

Terminology

Soft costs are those not considered as direct construction costs, including:

- Architectural costs
- Engineering costs
- Project management costs
- Financing
- Legal fees
- Other pre-/post-construction expenses

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[256] 44 CFR § 206.226(f).
[257] 44 CFR § 206.226(f)(1).
[258] This includes FEMA's minimum required codes and standards.

The replacement cost (denominator) is the cost of replacing the facility on the basis of its pre-disaster design (size and capacity) and function in accordance with applicable codes or standards. The denominator does not include costs associated with:

- Demolition
- Site work
- Soft costs
- Contents
- Hazard mitigation measures
- Emergency Work

Floodplain Management Ordinance Compliance

The costs to comply with a local floodplain management ordinance that requires elevation or floodproofing of a Substantially Damaged facility in an SFHA are eligible for PA funding. For the purpose of the 50% Rule calculation, these costs are not included in the repair cost of the calculation, but are included in the replacement cost of the calculation.

Although certain costs are not included in the 50% Rule calculation to determine whether the facility is eligible for replacement, the costs may be eligible for PA funding subject to all other eligibility requirements.

2. Written Request

The Applicant should submit its request for replacement within 1 year of the Major Disaster Declaration. The request should include both repair and replacement cost estimates with supporting documentation, prepared in accordance with the requirements described in Chapter 3:II.D.

A FEMA licensed engineer/architect with cost-estimating expertise or a certified cost estimator reviews all requests for replacement and validates the estimates. For any replacement requests over $5 million, the USACE Center for Excellence for Cost Engineering performs an additional review of the repair and replacement estimates. FEMA considers the results of the USACE review prior to approving replacement.

3. Eligible Funding

If the estimated repair cost exceeds 50 percent of the estimated replacement cost,[259] the actual replacement cost is eligible. The Applicant may elect to repair the facility in conformance with applicable codes and standards. In this case, FEMA limits the eligible cost to the estimated cost of repair or replacement, whichever is lower.[260]

If the repair cost does not exceed 50 percent of the replacement cost, AND upgrades to undamaged elements are triggered by codes or standards, AND the total of both is greater than 100 percent of the estimated replacement cost, FEMA caps the total eligible cost at the estimated replacement cost.

Demolition of a facility that is eligible for replacement is eligible as part of the work to replace the facility. Eligible costs include removal of the associated demolition debris.

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[259] For repair versus replacement, the term "replacement cost" means the cost of replacement in accordance with applicable codes and standards.
[260] 44 CFR § 206.226(f)(2).

With exception of specific projects identified in Appendix J: Cost Effective Hazard Mitigation Measures, 406 hazard mitigation funding cannot be applied to replacement facilities, unless the facility is part of an Alternative Procedures Project (described in Chapter 2:VII.G.4).

As discussed in Chapter 2:VII.B.4(a), if an applicable code or standard requires that a historic facility be restored in a certain manner and does not allow other options, the cost to restore the facility in accordance with the code or standard is eligible and may exceed the estimated replacement cost.[261] A historic facility is defined as one listed in, or eligible for listing in, the National Register of Historic Places.

4. Replacement of Components of a Facility or System

FEMA does not apply the 50% Rule to a facility's structural or mechanical components (e.g., windows, roofs, HVAC; electrical, plumbing). For example, FEMA does not apply the 50% Rule to a damaged HVAC system to determine whether the system should be repaired or replaced because it is a component of a building. As long as the HVAC system is repairable, as determined by an inspector or engineer with appropriate technical expertise, FEMA limits its funding to the repair of the system.

For facilities that are systems composed of multiple components that are easily segregated, FEMA applies the 50% Rule to individual components of the system, rather than the system as a whole.

The following are examples of facilities that are systems to which FEMA applies the 50% Rule calculation to individual components:

- Drainage channel or irrigation system: a section from node to node
- Water or sewer line system: a section of piping from manhole to manhole, a lift station, or a manhole structure
- Water or wastewater treatment plant: a control building, clarifier, or sedimentation pond
- Roadway: each damaged roadway section

Electrical distribution systems are evaluated for replacement based on the criteria in Chapter 2:VII.H.4(b).

The following are examples of facilities to which FEMA applies the 50% Rule to the entire facility:

- Bridge
- Culvert
- Building
- Pumping station
- Pier
- Pool, including integral pumping
- Bath house or rest room
- Equipment
- Lighting structure
- Sign

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[261] 44 CFR § 206.226(f)(3).

E. Relocation

FEMA may approve funding for and require restoration and relocation of an Applicant's destroyed (i.e., eligible for replacement) facility at a new location when all of the following conditions apply:

- The facility is subject to repetitive heavy damage because of its location. For example, facilities located in a SFHA are subject to repetitive heavy damage;
- Project approval is not barred by other regulations;[262] and
- The overall project, including all costs, is cost-effective. If the cost to relocate the facility is less than the eligible cost to replace the facility at its original location (the value of the land at the original site is not included as part of this evaluation) then the project is cost effective. In instances where the cost of relocation exceeds the cost to replace the facility at its original location FEMA may use its BCA process and software to determine cost effectiveness.

An applicable Federal, State, or local code or standard, such as a floodplain management regulation, may also require that a damaged facility be relocated away from a hazardous area (e.g. floodway). If the facility is destroyed (i.e. eligible for replacement) then FEMA determines whether relocation is cost-effective in the same manner as described above. If the facility is eligible for repair, FEMA may evaluate cost effectiveness using its BCA process and software[263] to compare the benefits of the damage prevented to the facility at its original location against the cost of replacement and relocation at the new location.

If relocation is not feasible or cost effective, the Applicant may request an Improved, Alternate, or Alternative Procedure project as detailed in Chapter 2.VII.G.

1. Eligible Work and Funding

Eligible work associated with relocation includes land acquisition and construction of necessary support facilities, such as roads, parking lots, and utilities. Demolition and removal of the original facility are also eligible if deemed necessary.[264] FEMA limits PA funding to the amount necessary to make the relocated facility and its associated components operational.

FEMA considers the proximity of the new site to utilities (water, sewer, and electric) and approves the least costly solution. Construction of an off-site support facility is only eligible if it is a utility that would serve the relocated facility exclusively.

For land acquisition, if the facility was located on 10 acres of land at the time of the incident, and FEMA determines that 10 acres is not necessary for the operation of the facility, FEMA limits PA funding to the necessary amount of land.

In situations where the Applicant owns the facility, but not the land or the support facilities at the original location, the cost to purchase the land or build support facilities is not eligible.

When FEMA requires relocation, FEMA does not provide future PA funding for repair or replacement of the original facility or for other facilities at the original site unless the facility

[262] 44 CFR § 206.226(g)(1).
[263] www.fema.gov/benefit-cost-analysis.
[264] 44 CFR § 206.226(g)(2).

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facilitates an open space use.[265] For example, if the Applicant converts the original site to a park, FEMA may provide PA funding in the future for park components, such as benches, tables, restrooms, or gravel roads.

2. Sale or Lease of Property at Original Site

The Applicant may sell or lease the original facility or the land on which a relocated facility was originally located. The Applicant must inform the purchaser of the property that FEMA will not provide future PA funding for repair or replacement of the original facility or for other facilities at the original site unless the facility facilitates an open space use.

The property which the facility is relocated to, and the relocated facility itself, are subject to the real property provisions of 2 CFR part 200 including disposition and reporting requirements under 2 CFR §§ 200.311 and 329, respectively.

If the Applicant takes an action, such as demolition, using PA funds at the original site, FEMA must complete an EHP review before the action occurs.

F. Facility Located in or Impacting a Floodplain

When FEMA provides PA funding for restoration of a facility located in or impacting a floodplain, FEMA is required to ensure minimization of harm to or within the floodplain.

1. 8-Step Decision-making Process

FEMA is responsible for determining whether a PA project will have an adverse impact on the 100-year floodplain (500-year floodplain for critical actions). To make this determination, FEMA initiates the 8-Step Decision-making Process defined in 44 CFR § 9.6. As part of this process FEMA evaluates the impacts the project may have on the floodplain and practicable alternatives. FEMA evaluates environmental, social, economic, technical, and legal factors, as defined in 44 CFR § 9.4. Some alternatives may not be eligible for PA funding. FEMA considers

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[265] 44 CFR § 206.226(g)(3).

whether each alternative identified is eligible for PA funding and, if not, whether the Applicant has funding available to proceed with the alternative without PA funding.

Projects in the 100-year floodplain (500-year floodplain for critical actions) are only eligible if, as a result of completing the 8-step process, FEMA is unable to identify a practicable alternative to restoring the facility within the floodplain. The 8-step process is not required for projects where the repair cost is less than $5,000.[266]

2. Facility Located in a Special Flood Hazard Area

SFHAs[267] are areas that are subject to inundation during a 100-year flood (a flood having a 1 percent chance of occurrence in a given year).

National Flood Insurance Program

For an NFIP-insurable facility located in an SFHA, FEMA must reduce PA funding when the facility is:

- Located in an area that FEMA has identified as an SFHA for more than 1 year;
- Damaged by flooding; and
- Uninsured for flood loss.

If the Applicant believes that its property is incorrectly identified on a FIRM as being located within the SFHA, it may request a Letter of Map Amendment or Letter of Map Revision from FEMA within 6 months of the declaration. If the Applicant's request is approved and FEMA determines that the property is not located in an SFHA, FEMA may reinstate PA funding. Costs incurred in pursuit of a Letter of Map Amendment or Letter of Map Revision are not eligible for PA funding.

Terminology

FEMA publishes **Flood Insurance Rate Maps (FIRMs)** that identify the following:

- **Special Flood Hazard Area (SFHA):** The land area subject to inundation during a flood having a 1 percent chance of occurring in a given year (also referred to as the base flood or 100-year flood).
- **Base Flood:** The flood which has a one percent chance of being equaled or exceeded in any given year (also known as a 100-year flood). This term is used in the National Flood Insurance Program (NFIP) to indicate the minimum level of flooding to be used by a community in its floodplain management regulations.
- **Base Flood Elevation (BFE):** The computed elevation to which floodwater is anticipated to rise during the base flood.
- **Coastal High Hazard Area:** The area subject to high velocity waters including but not limited to hurricane wave wash or tsunamis. On a Flood Insurance Rate Map (FIRM), this appears as zone V1-30, VE or V.
- **Floodway:** The portion of the floodplain which is effective in carrying flow, within which this carrying capacity must be preserved and where the flood hazard is generally highest, i.e., where water depths and velocities are the greatest. It is that area which provides for the discharge of the base flood so the cumulative increase in water surface elevation is no more than one foot.

If the Applicant does not have flood insurance for the facility or carries inadequate flood insurance for the insurable facility, FEMA will reduce eligible project costs by the lesser of:

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[266] 44 CFR § 9.5(c)(13).
[267] 44 CFR § 206.251.

- The maximum amount of insurance proceeds that could have been obtained from an NFIP standard flood insurance policy for the building and its contents;[268] or
- The value of the building and its contents at the time of the incident.

FEMA does not apply this reduction to PNP facilities in communities that do not participate in the NFIP.[269] However, for FEMA to provide PA funding for the PNP facility, the community must agree to participate in the NFIP within 6 months of the declaration and the PNP must purchase the required flood insurance; or the PNP must obtain and maintain flood insurance from another source.[270]

Terminology

A **critical action** is an action for which even a slight chance of flooding is too great. The minimum floodplain of concern for critical actions is the 500-year floodplain (also referred to as the critical action floodplain).

Critical actions are defined in 44 CFR § 9.4, Definitions, which includes examples of actions that FEMA deems critical.

If an action is not specified in 44 CFR Part 9, Floodplain Management and Protection of Wetlands, FEMA utilizes the U.S. Water Resource Council Floodplain Management Guidelines to determine whether a proposed action is deemed a critical action by considering the following:

- The potential for additional impacts if the proposed project is flooded in a future incident (e.g., the facility contains volatile or toxic materials).
- The ability for occupants of buildings such as hospitals, schools, and nursing homes to evacuate in time to avoid loss of life and injury given the flood warning lead-time available in a future incident.
- The potential for emergency services and utilities to become inoperative, or essential and irreplaceable records to be lost if a facility is flooded in a future incident.

The term "critical action" should not be confused with a PNP "critical service" or "critical facility."

G. Capped Projects

FEMA provides three options that provide flexibility for the Applicant to use PA funding differently than restoring the pre-disaster design and function of the facility. For these options, FEMA caps the amount of PA funding based on the estimated amount to restore the damaged facility to its pre-disaster design and function, including applicable and federally required codes and standards.[271]

The three capped project options are:

- Improved Project:[272] A project that restores the pre-disaster function, and at least the same capacity, of the damaged facility and incorporates improvements or changes to its pre-disaster design not required by eligible codes or standards.
- Alternate Project:[273] The use of funds toward a project that does not restore the pre-disaster function of the damaged facility. If the Applicant determines the public welfare would not be best served by restoring a damaged facility or its function, it may use the funds toward a different facility (or facilities) that benefit the same community.

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[268] 44 CFR § 206.252(a).
[269] 44 CFR § 206.252(b).
[270] Ibid.
[271] This includes FEMA's minimum required codes and standards.
[272] 44 CFR § 206.203(d)(1).
[273] 44 CFR § 206.203(d)(2).

- Alternative Procedures Pilot Program for Permanent Work Project (Large Projects only):[274] The use of Large Project funds toward a project(s) that restores the facility to its pre-disaster design and function or toward a project that would otherwise be an Improved or Alternate Project, or other projects, including a combination of projects. This type of capped project offers the maximum amount of funding options to include flexibility with how the Applicant may use the funds and retention of funds not authorized under the standard Improved and Alternate Project options, including the following four alternative procedures:
    - Consolidation of multiple capped projects
    - Elimination of reduced funding for an Alternate Project
    - Retention of excess funds for approved purposes
    - Third-party expert panel[275] review for estimates with a Federal share of $5 million or greater (FEMA requires this review for estimates that exceed $25 million).

Each of these options is subject to different eligibility and process requirements, which are described in detail below. As FEMA is implementing the Alternative Procedures via a pilot program, FEMA may periodically adjust program specifics. Therefore, FEMA maintains additional policy specifics at www.fema.gov/alternative-procedures.

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Capped Amount

As stated above, FEMA caps the amount of PA funding based on the estimated amount to restore the damaged facility to its pre-disaster design and function, including applicable and federally required codes and standards. The capped amount may include a reasonable amount of DAC and soft costs based on the SOW to restore the facility to its pre-disaster design and function. However, the capped amount does not include costs that are only related to, or only triggered by, changes to the pre-disaster design or function of the damaged facility. These include, but are not limited to, costs related to:

- Additional engineering and design
- EHP compliance
- Work required by applicable and federally required codes or standards

For Alternative Procedures Projects specifically, FEMA does not adjust the capped amount even if the Applicant discovers hidden damage during the course of completing previously approved work.

If the Applicant's actual costs exceed the capped amount, FEMA does not approve additional funds.

Alternative Procedures Project: Expert Panel Cost Estimate Review

For an Alternative Procedures Project with an estimated Federal share of at least $5 million, upon the Applicant's request, FEMA provides a FEMA-funded,[276] independent validation of the cost estimate. The validation is conducted by an expert panel composed of design, engineering,

[274] Stafford Act § 428, 42 U.S.C. § 5189f.
[275] FEMA utilizes the U.S. Army Corps of Engineers (USACE) Center for Excellence for Cost Engineering as the expert panel.
[276] The expert panel is fully funded by FEMA and does not require a non-Federal cost share.

construction, cost-estimating, and industry professionals retained by a contractor or another agency with which FEMA has established an agreement for the panel's services. The panel is independent of FEMA, the Recipient, and the Applicant. FEMA also has discretion to direct estimates to the panel for review. FEMA does not use this panel for appeals.

If the Applicant requests this validation, the panel:

- Conducts its review before the Applicant's acceptance and before FEMA's obligation of funds
- Limits its review to issues pertaining to the estimated cost (the panel will not make decisions related to the eligibility of the damage or SOW); however, it may make determinations with regard to incorporation of cost elements relating to project execution that could affect the SOW
- May review cost documentation for completed work, if applicable and necessary

If the estimated amount deemed appropriate by the expert panel is less than the Applicant is willing to accept as a capped amount, the Applicant may forgo the Alternative Procedures and request that FEMA process the project using standard procedures. In these cases, FEMA obligates the project based on the estimated amount determined by the expert panel and final funding is based on actual eligible costs.

Environmental and Historic Preservation Review

Capped projects may involve significant changes to the pre-disaster configuration of a facility (e.g., location, footprint, or size). As with all projects, the Applicant needs to obtain FEMA approval prior to the start of construction so that FEMA can ensure that the project complies with appropriate EHP laws, regulations, and EOs. If the Applicant starts construction prior to FEMA's completion of this review, it will jeopardize PA funding for the entire project.

Insurance

FEMA will reduce the amount of the fixed estimate to account for insurance coverage based on:

- Actual insurance proceeds, if known; or
- Anticipated insurance proceeds based on the Applicant's insurance policy, if the amount of actual proceeds is unknown.

Upon completion of the project, FEMA adjusts the fixed estimate to account for actual insurance proceeds as described in Chapter 2:V.P.1.

The Applicant must obtain and maintain insurance in accordance with FP 206-086-1, *Public Assistance Policy on Insurance*.[277]

1. Capped Project Approval

Approval requirements differ for each type of capped project.

(a) Improved Project

For Improved Projects, the Applicant must obtain approval from the Recipient.[278] If the Improved Project significantly changes the pre-disaster configuration of the facility, the

[277] www.fema.gov/media-library/assets/documents/107564.
[278] 44 CFR § 206.203(d)(1).

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Recipient must forward the request to FEMA to ensure that the Improved Project complies with appropriate EHP laws, regulations, and EOs.

(b) Alternate Project

For Alternate Projects, the Applicant must obtain approval from FEMA. If the Alternate Project involves construction, the Applicant must obtain FEMA approval prior to the start of construction.[279]

(c) Alternative Procedures Project

For Alternative Procedures Projects, FEMA, the Recipient, and the Applicant must reach agreement on the capped amount within 12 months of the declaration date. Upon request from the Applicant, FEMA may approve a time extension on a project-by-project basis. The Applicant's request must include the circumstances that justify the extension and demonstrate progress on reaching an agreement. In complex or catastrophic incidents, upon request from the Recipient, FEMA may approve an extension for all Applicants.

FEMA, the Recipient, and the Applicant document the agreed upon capped amount with either a Fixed Cost Agreement Letter or a Letter of Undertaking, as appropriate. Once the Applicant signs and submits either the Fixed Cost Agreement Letter or the Letter of Undertaking, it may not revert back to a project funded based on actual costs.

If FEMA, the Recipient, and the Applicant cannot agree on the fixed estimate by the deadline, the project will not be eligible for the Alternative Procedures and FEMA will process it using standard procedures.

Details regarding the process for participating in, and preparing projects under, the Alternative Procedures, along with templates of the Fixed Cost Agreement Letter and Letter of Undertaking are provided at www.fema.gov/alternative-procedures.

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2. Capped Project Funding

Once FEMA caps the funding, the type of capped project impacts the maximum Federal funding the Applicant can receive.

(a) Improved Project Funding

Federal funding for an Improved Project is limited to the lesser of the following:

- The Federal share of the approved estimated cost to restore the damaged facility to its pre-disaster design and function; or
- The Federal share of the actual costs of completing the Improved Project.[280]

FEMA only increases eligible funding for an Improved Project if the Applicant identifies an error or omission in the original SOW or cost estimate related to restoring the facility to its pre-disaster design and function.

[279] 44 CFR § 206.203(d)(2)(v).
[280] Ibid.

(b) Alternate Project Funding

Federal funding for an Alternate Project is capped at the lesser of:

- Ninety percent (75 percent for PNPs) of the Federal share of the estimate to restore the original facility; or
- The Federal share of the actual cost of completing the Alternate Project.[281]

(c) Alternative Procedures Project

An Alternative Procedures Project is capped at the Federal share of the estimate to restore the original facility. If the Applicant does not expend all of those funds, it may use the excess funds for approved purposes as described in Chapter 2:VII.G.3(c).

Alternate Project Calculation

Project Estimate of Eligible Damage:	$100,000
10% Reduction (25% for PNPs):	x .90
New Project Amount:	$ 90,000
75% Federal Cost Share:	x .75
Maximum Federal Funding:*	$67,500

* Applicant must spend at least 90% of the project estimate to receive the maximum amount of Federal funding. PNP Applicants must spend at least 75%of the project estimate.

These reductions are not taken if the project is an Alternative Procedures Project.

Alternative Procedures Alternate Project

The Applicant may use Alternative Procedures Project funds toward an Alternate Project. In this case, FEMA does not implement the reduction that is applied under the standard program (described in the preceding section). All other Alternate Project requirements under the standard PA Program apply to Alternative Procedures Alternate Projects, such as how the Applicant may or may not use the funds.

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3. Use of Capped Project Funds

FEMA has different requirements for how the Applicant can use the funds related to each type of capped project.

(a) Use of Improved Project Funds

When restoring a damaged facility, the Applicant may decide to make improvements to the facility. A project that incorporates such improvements is an Improved Project.[282] The improved facility must have the same function and at least the same pre-disaster capacity as the damaged facility. The following are examples of Improved Projects:

- Laying asphalt on a gravel road
- Replacing a firehouse that originally had two bays with a firehouse that has three bays
- Incorporating requirements dictated by a code or standard that does not meet PA eligibility criteria
- Relocating a facility when the relocation is not required by FEMA

The Applicant can combine PA funds with funding from another Federal agency to construct the Improved Project. However, the Applicant cannot use funding from another Federal agency toward the non-Federal cost share of the PA-funded project, unless the legislation for the other

[281] 44 CFR § 206.203(d)(2)(ii) and (iii).
[282] 44 CFR § 206.203(d)(1).

grant allows such use. The Community Development Block Grant program[283] is an example of a Federal program that, in certain circumstances, allows its funding to be used to meet the non-Federal share of another Federal grant program.

(b) Use of Alternate Project Funds

An Applicant may determine that the public welfare is not best served by restoring the function of the damaged facility. When this occurs, the Applicant may request approval from FEMA to apply PA funding toward a different project(s). FEMA refers to this as an Alternate Project.[284] The Alternate Project must be a permanent project that benefits the general public, serving the same general area that was being served by the original facility. The Applicant may use Alternate Project funds to:

- Repair, expand, mitigate, or construct a facility that would otherwise be an eligible facility under the PA Program[285]
- Demolish facilities
- Purchase capital equipment that has a useful life of at least 1 year and is equal to, or greater than, $5,000 per unit
- Fund project shortfalls due to mandatory flood insurance reductions taken from PA Program funding for repairs to buildings in SFHAs (see Chapter 2:VII.F.2)
- Supplement funds for an Improved Project
- Conduct cost-effective hazard mitigation measures, regardless of whether the facility was damaged by the incident and whether the measures reduce the risk of future damage from the same type of incident or of the same type of damage caused by the incident. Alternate Project funds may be use used for hazard mitigation provided that:
    - Funding does not duplicate other FEMA mitigation funding; and
    - Measures reduce the risk of future damage to a facility that is otherwise eligible either under the PA or HMA programs. If the measures are the same type as those eligible for HMA funding, they must meet a need for governmental services and functions or eligible PNP services and functions in the area affected by the incident.

The Applicant may not use Alternate Project funds to:

- Meet budget shortfalls
- Create a new community plan
- Landscape
- Pay for operating expenses[286]
- Purchase supplies, furniture, or equipment costing less than $5,000 per unit
- Pay the non-Federal share of any PA project[287]
- Fund buyouts for mitigation, such as acquisition of flood-prone property to create open space
- Supplement funds on projects that utilize other Federal agency grants

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[283] http://portal.hud.gov/hudportal/HUD?src=/program_offices/comm_planning/communitydevelopment/programs.
[284] 44 CFR § 206.203(d)(2).
[285] 44 CFR § 206.203(d)(2)(iv).
[286] Ibid.
[287] Ibid.

- Fund a project located in a FEMA-designated floodway

(c) Use of Alternative Procedures Project Funds

When the Applicant agrees to a capped project under the Alternative Procedures, it may utilize any one or more of the following procedures:

- Consolidation of multiple capped projects
- Elimination of reduced funding for Alternate Projects
- Retention of excess funds for approved purposes
- Third-party expert panel review for estimates with a Federal share of $5 million or greater

Example of an Alternative Procedures Project

A county road crosses a water course and its adjacent floodplain using five culverts. During the incident, floodwaters overtop the road and damage the crossings, either by washing out the culverts or by damaging the roadway and headwalls. FEMA prepares and approves a subaward with five site sheets to repair or replace each culvert crossing, including hazard mitigation measures to increase the size of the culverts. Subsequently, the Applicant requests that the aggregate funding for the five crossings be used to replace the current configuration with one bridge.

The Applicant may use Alternative Procedures Project funds to restore the pre-disaster design and function of the facility or it may use the funds to complete a project with a different design and/or function. The Applicant may use the funds to construct new facilities, purchase equipment, or conduct measures that reduce future risk.

The Applicant may not use the funds for the following:

- Facilities or equipment that are not otherwise eligible for PA funding
- To meet the local cost share for other Federal projects
- To pay down debts, cover budget shortfalls, or meet operating expenses
- To conduct planning and design that go beyond the work related to the project, such as community-wide planning

Example of an Alternative Procedures Consolidated Project

The Applicant operates 10 facilities located throughout the declared area. FEMA approves 10 subawards for restoration of each facility and the Applicant accepts 10 capped subawards. The Applicant determines that, because of changes in the local economy and population, the community is best served by re-aligning the facility footprint. The Applicant proposes to demolish four facilities, restore the remaining six, open a new facility in a different location, and construct an administrative building and a community center. As a result, the Applicant requests to consolidate the total amount of funding for all 10 capped subawards into a single subaward to restore six buildings and construct three new buildings.

<u>Consolidated Project</u>

The Applicant may combine two or more capped projects into a single project, creating a Consolidated Project. FEMA caps funding for the Consolidated Project at the aggregate amount of the eligible costs for the formerly separate, individual, capped projects. The Applicant must consolidate each individual project in its entirety (i.e., all sites from the project).

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The Applicant may consolidate projects regardless of the status of construction. It may consolidate projects with different categories of Permanent Work (e.g., by combining Category C and Category E projects) or consolidate within the same category of work (e.g., multiple school-campus locations).

The Applicant may share funding across any of the facilities or sites within the Consolidated Project to meet its post-disaster recovery needs.

The Applicant must notify FEMA of the projects to be consolidated and the final SOW to be completed under the Consolidated Project within 12 months of the declaration date. Upon request from the Applicant, FEMA may approve a time extension for the Applicant to consolidate its capped projects. The Applicant's request must include the circumstances that justify the extension.

Consolidated Project Preparation

In cases where the Applicant decides, prior to obligation, that a Consolidated Project is preferred, in the interest of efficiency, the Consolidated Project can be defined during project formulation (i.e., the facilities being consolidated do not need to be prepared separately, approved, and then consolidated). The fixed funding is based on the eligible SOWs to restore the original damaged facilities to pre-disaster design and function.

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Use of Excess Funds

When the Applicant completes the approved SOW of the capped project, leftover funds are excess funds and the Applicant may use these funds for specific approved purposes.

When the Applicant completes an Alternative Procedures Project for less than the capped amount, it must submit its certified final costs to FEMA (through the Recipient) within 90 days of project completion. As part of this submittal, the Applicant must describe its intended use of the excess funds, to include the SOW and project timeline. FEMA will close the original project and prepare a new project to document the approved use of the excess funds and an appropriate deadline for completion. The Applicant may use the excess funds for the following:

- Cost-effective hazard mitigation measures that will reduce the risk of damage in future incidents. The Applicant may use the funds for hazard mitigation on facilities not damaged in the incident, provided the facilities would otherwise be eligible for PA funding, and toward hazard mitigation activities on other Alternative Procedures Projects.
- Activities that improve future PA Program Permanent Work operations, such as training and planning for future disaster recovery operations.

Unacceptable uses include:

- Payment of debts
- Payment of the non-Federal share of PA projects or other Federal awards
- Operating expenses
- Cost overruns on other PA projects (that are not part of the Consolidated Project)
- Incorporation into the community's General Fund
- Restoring a facility not damaged in the declared incident (with the exception of hazard mitigation, as described in Chapter 2:VII.G.4(c))
- Restoring a facility that would not otherwise be eligible for PA funding

Obtain-and-maintain requirements for insurance apply to work funded with excess funds, as appropriate.

4. Retention of 406 Mitigation Funds

If FEMA approves mitigation funds as part of the capped amount, FEMA's allowance for the Applicant to retain those funds depends upon the type of capped project and the SOW being conducted.

(a) Improved Project

If the capped amount for an Improved Project includes mitigation funds and the Applicant either does not complete the mitigation work, or replaces or relocates the original facility, FEMA deobligates the mitigation funds.

(b) Alternate Project

If the SOW to restore a facility includes mitigation, and the Applicant elects to proceed with an Alternate Project, FEMA does not include costs related to the mitigation in the capped amount for the Alternate Project.

(c) Alternative Procedures Project

If the capped amount for an Alternative Procedures Project includes mitigation funds, FEMA may allow the Applicant to retain the mitigation funds on a case-by-case basis. The level of risk reduction achieved for the Alternative Procedures Project must equal, or exceed, the benefit that the Applicant would have achieved through completion of the approved mitigation measures.

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5. Funding from a Facility with an Approved Temporary Facility

If FEMA approves a capped project for a facility for which it also approved temporary relocation of the services to a temporary facility, FEMA does not apply funds from the temporary facility toward the capped project. Additionally, continued funding for that temporary facility is restricted as described below.

(a) Improved Project

If FEMA approves an Improved Project for a facility for which it also approved temporary relocation of the services to a temporary facility, the temporary facility is only eligible for PA funding for the estimated amount of time necessary to restore the facility to its pre-disaster design and function. If the actual time to restore the facility with the improvements extends beyond this timeframe and causes the Applicant to continue its use of the temporary facility, FEMA does not reimburse any cost associated with that continued use. However, FEMA may reimburse costs associated with relocating its services back into the facility as part of the approved temporary facility project.

(b) Alternate Project

If FEMA approves an Alternate Project for a facility for which it also approved temporary relocation of the services to a temporary facility, FEMA does not reimburse any temporary facility costs incurred after the date the Applicant requests that Alternate Project.

(c) Alternative Procedures Project

If FEMA approves an Alternative Procedures Project for a facility for which it also approved temporary relocation of the services to a temporary facility, continued PA funding for the temporary facility is dependent upon the SOW of the Alternative Procedures Project.

6. Disposition of Original Facility

For Alternate and Alternative Procedures Projects, if the Applicant does not repair, replace, or sell the damaged facility for which the capped project funding was based, and that facility is unsafe if not repaired, the Applicant must render the facility safe and secure (e.g., by restricting access, locking doors and windows, constructing a fence around the property) or demolish it.

If the Applicant receives funds for salvaged components of the facility, FEMA adjusts the capped project by the value or anticipated fair market value of salvaged materials less the estimated costs necessary to demolish the facility, grade the site, or make the facility safe and secure.

For any action at the original site, such as demolition, that is completed using PA funds, FEMA must conduct an EHP review. However, if the Applicant completes the work at the original site using non-PA funds, a FEMA EHP review is not required.

If the Applicant opts to keep a damaged facility for a later use, the facility may be eligible for PA funding in future incidents, provided the Applicant repaired the facility in accordance with current codes and standards, and completed any mitigation measures that FEMA included in the original SOW prior to the incident.

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H. Eligibility Considerations by Facility

This section details the types of facilities captured within each category of work along with specific eligibility criteria related to one or more of the facilities within each category. See Appendix K: Work Eligibility Considerations by Type of Facility, for a summary of eligibility by facility type.

1. Roads and Bridges (Category C)

Roads may be paved, gravel, or dirt. Road components include, but may not be limited to:

- Surfaces
- Bases
- Shoulders
- Ditches
- Drainage structures, such as culverts
- Low water crossings
- Associated facilities, such as lighting, sidewalks, guardrails, and signs

Bridge components include, but may not be limited to:

- Decking
- Guardrails
- Girders
- Pavement
- Abutments

- Piers
- Slope protection
- Approaches
- Associated facilities, such as lighting, sidewalks, and signs

Permanent Work to restore roads and bridges is eligible unless restoration is under the specific authority of another Federal Agency such as FHWA. However, for Tribal Governments specifically, although BIA or FHWA may have authority to provide permanent restoration of public Tribal roads, such roads may be eligible for PA funding provided the Tribal Government does not receive funding from BIA or FHWA for the same work.

FHWA has authority to restore public roads under the Emergency Relief (ER) Program[288]. Roads that are eligible for ER assistance are identified as Federal-aid routes, which include highways on the Federal-aid highway system and all other public roads not classified as local roads or rural minor collectors. The ER Program is activated separately from Presidential declarations under the Stafford Act and may not be activated for all incidents. Federal-aid routes are not eligible for Permanent Work even if the ER Program is not activated or if the program is activated but FHWA does not provide funding for the work. FHWA also has authority to assist with restoration of transportation facilities under the Emergency Relief for Federally Owned Roads Program (ERFO).[289]

Private roads, including homeowners' association roads, are not eligible. However, roads owned by a Tribal Government may be eligible even if they are not open to the general public.

Work to repair scour or erosion damage to a channel or stream bank is eligible if the repair is necessary to restore the structural integrity of an eligible road, culvert, or bridge. Earthwork in a channel or stream embankment that is not related to restoring the structural integrity of an eligible facility is not eligible.

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Maintenance

The incident may cause minor damage to roads that result in damage similar to that which may occur over time from other causes, such as the age of the road, traffic flow, and frequent rain. Therefore, distinguishing between pre-existing damage and damage caused by the incident is often difficult. For the repair of this type of damage to be eligible, the Applicant must demonstrate that the damage was directly caused by the incident.

When evaluating eligibility of reported road damage, in addition to evaluating how the incident caused the damage, FEMA reviews maintenance records or documentation establishing that the Applicant has a routine maintenance program. In the absence of maintenance records, FEMA reviews material purchase invoices and activity logs and inspects other sections of the Applicant's road system to confirm the performance of normal maintenance activities.

Normal maintenance is not eligible. Work to repair potholes or fatigue cracking is generally ineligible as this type of damage is rarely caused directly by one incident.

[288] http://www.fhwa.dot.gov/programadmin/erelief.cfm
[289] http://flh.fhwa.dot.gov/programs/erfo/

2. Water Control Facilities (Category D)

Water control facilities are those facilities built for the following purposes:

- Channel alignment
- Recreation
- Navigation
- Land reclamation
- Irrigation
- Maintenance of fish and wildlife habitat
- Interior drainage
- Erosion prevention
- Flood control
- Storm water management

They include:

- Dams and reservoirs
- Levees and floodwalls
- Lined and unlined engineered drainage channels
- Canals
- Aqueducts
- Sediment and debris basins
- Storm water retention and detention basins
- Coastal shoreline protective devices
- Irrigation facilities
- Pumping facilities
- Navigational waterways and shipping channels

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(a) Restoring the Capacity of Channels, Basins, and Reservoirs

Restoring the pre-disaster carrying or storage capacity of engineered channels, debris and sediment basins, storm water detention and retention basins, and reservoirs may be eligible, but only if the Applicant provides documentation to establish:

- The pre-disaster capacity of the facility; and
- That the Applicant maintains the facility on a regular schedule.

If the Applicant chooses to remove non-incident-related material along with that deposited as a result of the incident, the project is considered an Improved Project.

Documentation Supporting Pre-disaster Capacity

Survey data that is either *recent* or covers a multi-year period such that FEMA is able to determine the amount of new material reasonably attributable to the incident.

Documentation Supporting Regular Maintenance

Written maintenance plan and/or activity logs documenting regular intervals of activity. Applicant logs documenting clearance of blockages in response to resident complaints are not sufficient to substantiate a regular maintenance schedule.

(b) Flood Control Works

Flood control works are those structures such as levees, flood walls, flood control channels, and water control structures designed and constructed to have appreciable effects in preventing damage by irregular and unusual rises in water levels.

Generally, flood control works are under the authority of USACE or NRCS and restoration of damaged flood control works under the authority of another Federal agency is not eligible.

Secondary levees riverward of a primary levee are ineligible, unless the secondary levee protects human life.

3. Buildings and Equipment (Category E)

Buildings, including:

- All structural and non-structural components, including mechanical, electrical, and plumbing systems
- Contents and equipment within the building
- Furnishings

Equipment includes:

- Vehicles
- Construction equipment

Repair or replacement of buildings and equipment is eligible.

(a) Buildings

For buildings and building systems, distinguishing between damage caused by the incident and pre-existing damage may be difficult. Before making an eligibility determination, FEMA considers each of the following:

- The age of the building and building systems
- Evidence of regular maintenance or pre-existing issues, such as water damage from a leaky roof
- The severity and impacts of the incident

Mold remediation and removal of mud, silt, or other accumulated debris is eligible as Permanent Work when conducted in conjunction with restoration of the facility.

<u>Earthquake Damage to Welded Steel Moment Frame Buildings</u>

FEMA has specific eligibility criteria for evaluating and repairing earthquake damage to buildings constructed with welded steel moment frames. FEMA bases the eligibility criteria on *Recommended Post Earthquake Evaluation and Repair Criteria for Welded Steel Moment Frame Buildings* (FEMA 352).[290]

The repair of the damaged frame connections to pre-earthquake design in accordance with FEMA 352, Chapter 6, is eligible, but only if FEMA approves a specific SOW for the repairs

[290] www.fema.gov/media-library/assets/documents/747.

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prior to the Applicant performing the work. Repair of the architectural finishes and fire retardants removed in the area of the damage are also eligible.

(b) Equipment and Supplies

Repairing damaged—or replacing destroyed—equipment and supplies with the same number of equivalent items is eligible.[291] Equivalent items are similar in age, condition, and capacity.

The Applicant may replace equipment or supplies with different items used for the same general purpose. However, FEMA caps the eligible cost at the estimated amount for items equivalent to those damaged.

When equipment is not repairable, FEMA uses "blue book" values or similar price guides to estimate the eligible cost.

When a used item is not reasonably available (within a reasonable cost, time, or distance) or does not meet applicable national consensus standards, the purchase of a new item with similar capacity is eligible.

If the cost to replace the item is less than the cost to repair it, FEMA limits PA funding to the replacement cost.

Terminology

Consensus standards are standards that have been adopted by a nationally recognized standards-producing organization.

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(c) Files

Eligible activities associated with the recovery of files include, but are not limited to:

- Recovery of damaged hard copies
- Stabilizing the damaged hard copies
- Sanitizing damaged hard copies
- Photocopying or scanning damaged hard copies to re-establish files
- Recovering data from water-damaged computer hard drives

Recovery of damaged hard copies includes labor and materials, such as bags, boxes, and containers. Stabilizing damaged hard copies includes freeze-drying. Photocopying or scanning includes labor and materials such as new folders and paper.

Not all activities are eligible. Examples of ineligible activities include:

- Establishing new information databases
- Manually entering data that was lost in damaged computers
- Scanning re-established hardcopy files into computers to create digital files
- Deciphering photocopies of damaged hard copies

[291] 44 CFR § 206.226(h).

(d) Research-Related Contents

Reagents and specimen collections are eligible for replacement based on the following criteria.

The number of units of each reagent eligible for replacement is equal to the number actually lost OR to the number necessary to restore basic research activity, whichever is less.

FEMA reimburses the purchase price from commercial sources or other institutions, whichever is less. The replacement of reagents that are so unique that they are considered an outcome of a research program is not eligible.

Replacing a representative, but not necessarily a whole portion, of a specimen collection may be eligible. To be eligible for replacement, the specimen types should be available for purchase from commercial sources or other institutions and support an ongoing eligible educational or medical program.

Terminology

A **reagent** is a substance used in a chemical reaction to detect, measure, examine, or produce other substances. Some reagents are very common and available for purchase from commercial sources.

A **specimen** is a portion or quantity of material for use in testing, examination, or study, including blood plasma and flesh tissue.

A **specimen collection** is a repository of specimens related to biomedical, marine, or agricultural research.

(e) Animals

Animals housed or exhibited in an eligible facility are eligible for replacement with the same number of comparable animals if they are:

- Injured to the extent they are no longer able to function for the intended purpose
- Killed
- A destroyed specimen
- A damaged specimen that is not recoverable

The animal is not eligible for replacement if a comparable animal is not available for purchase or the Applicant is unable to obtain a comparable at a reasonable cost.

Eligible animals may include, but are not limited to:

- Police animals
- Trained and certified rescue dogs
- Animals in museums, zoos, or publicly owned nature centers
- Fish in fish hatcheries
- Taxidermy specimens
- Animals used by rehabilitation facilities as part of diagnosis or treatment
- Laboratory animals used in an active research program

Terminology

A **taxidermy specimen** is an animal that has been preserved and mounted in a lifelike representation.

The replacement of animals on loan to an eligible facility at the time they are destroyed is eligible if the Applicant is able to provide documentation that establishes legal responsibility.

Additionally, FEMA may provide PA funding for actions taken to save the lives of these animals as a Category B emergency protective measure.

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Determining Costs

The estimated cost to replace an animal is usually determined through market surveys. Costs associated with acquiring donated, loaned, or wild animals as replacement animals are eligible provided they do not exceed the estimated cost of purchasing a comparable animal.

When a destroyed animal is replaced through a donation or loan of a comparable animal, costs associated with the purchase of another comparable animal are not eligible.

For laboratory animals, eligible costs associated with replacement include, but are not limited to, the replacement cost of a laboratory animal that is as genetically close as possible to, but does not exceed, the genetic progression of the lost animal AND can be reasonably procured commercially. If an identically genetic animal is not available, the eligible cost is based on a readily procured animal that is as genetically close as possible to the original animal. The Applicant, using its scientific research staff, an independent member of the scientific community, or a certified expert, needs to make reasonable decisions on the genetic likeness of the replacement lab animals.

Ineligible costs associated with replacing laboratory animals include:

- The cost of reproducing a new animal with all the characteristics of the lost animal to re-establish research
- The cost of using a laboratory to perform a breeding program to advance benchmark stock to the genetic changes lost because of the incident
- The cost associated with surgery required to replace a surgically altered animal
- The cost associated with the replacement of a laboratory animal when an animal of similar genetic characteristics can be obtained at no cost from other researchers or institutions

If the Applicant requests, and the Recipient approves, other than in-kind and exact number of replacement animals, FEMA caps the Federal share based on the estimated in-kind replacement costs.

Terminology

Archives are materials created or received by a person, family, or organization, public or private, and preserved because of the enduring value they contain, or as evidence of the functions and responsibilities of their creator, especially those materials maintained using the principles of provenance, original order, and collective control.

Accession is formal process used to legally accept and record a specimen or artifact as a collection item.

A **catalog** is a full record of information specific to an item and cross-referenced to other records and files, including identification and documentation of the material.

Stabilization is a series of treatment measures intended to maintain the integrity of a collection or object and to minimize deterioration. It involves the minimum steps necessary to return a collection or object to a condition in which it can function in the same capacity as it did prior to the disaster.

Conservation is the preservation of a collection or object for the future. Conservation activities include examination, documentation, treatment, and preventive care, supported by research (e.g., scholarly and technological, x-rays, paint sampling) and education.

Special library collections typically include unique, rare printed books, first editions (often author-signed), manuscripts, archives, artifacts, photos, engravings, graphics, music, and ephemera, as well as limited edition print runs of special collections of maps or other important topics.

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(f) Irreplaceable Collections and Individual Objects

Collections and individual objects are artifacts, specimens, artworks, archives, public records, and other items that are often considered irreplaceable because of their artistic, educational, historic, legal, scientific, or social significance. They are nonliving and, therefore, do not include animals or plant material, and are usually one-of-a-kind. Eligible collections and individual objects may be in storage or on display in a public or PNP facility and may include items located outdoors, such as sculptures and public art installations.

Stabilization of damaged collections or individual objects is eligible. Stabilization is a series of treatment measures to maintain the integrity of a collection or object and to minimize deterioration. Stabilization involves taking the minimum steps necessary to return a collection or object to a condition in which it can function in the same capacity as it did prior to the incident. This includes:

- Treating damaged items through proper environmental controls, such as temperature and humidity; and
- Chemical or mechanical cleaning to stabilize items to prolong their existence, maintain their integrity, and minimize further deterioration from the damaging effects of the incident.

Additional treatment beyond stabilization is eligible if it is necessary to maintain the integrity of the collection or object and return it to its pre-disaster function.

In some cases, costs associated with restoring an item to pre-disaster—but not original—condition may be eligible. For example, repairing a tear in a painting that was a direct result of the incident may be eligible, whereas costs to remove signs of pre-disaster aging, such as layers of old varnish, are not eligible.

Costs associated with the development of a treatment plan for a damaged collection or individual object are eligible.

Treatment is conducted by qualified conservation professionals with the appropriate specialty and in accordance with the American Institute for Conservation of Historic and Artistic Works Code of Ethics and Guidelines for Practice.[292]

FEMA, in consultation with the Recipient and Subrecipient, may recommend no treatment when non-intervention best serves to promote the preservation of damaged items.

Collections and individual objects damaged to the extent that stabilization is not practicable or possible are considered destroyed. Replacement of destroyed collections or individual objects is not eligible.

Restoring materials, equipment, and exhibition furnishings associated with the

Documentation Supporting Classification as Collection or Individual Object

Generally, documentation of collections and individual objects include accession, catalog, and inventory documentation. Subrecipients should submit all associated documentation along with a clear title to all items.

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[292] www.nps.gov/training/tel/Guides/HPS1022_AIC_Code_of_Ethics.pdf.

storage, display, preservation, or exhibition of collections and individual objects is eligible. These may include, but are not limited to:

- Equipment regulating temperature or humidity
- Exhibit panels
- Models
- Video and audio equipment

(g) Library Books and Publications

Replacement of damaged or destroyed library books and publications is eligible based on the pre-disaster inventory of the quantities of the books and publications. Re-shelving, cataloging, and other work incidental to the replacement of library books and publications is also eligible.[293]

However, special library collections, including rare books, manuscripts, and other fragile materials, are only eligible for treatment, not replacement.

4. Utilities (Category F)

Utilities include:

- Water storage facilities, treatment plants, and delivery systems
- Power generation, transmission, and distribution facilities, including, but not limited to, wind turbines, generators, substations, and power lines
- Natural gas transmission and distribution facilities
- Sewage collection systems and treatment plants
- Communication systems

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(a) Right-of-Way Clearance

The Applicant may need to clear its ROW to obtain access to repair a utility. It is the Applicant's responsibility to maintain its ROW. FEMA may fund limited clearance of disaster-related debris from the ROW to enable access to the facility. Additionally, if trees in the vicinity of the facility were damaged by the incident and an arborist confirms that the trees cause an immediate threat of further damage to the facility (e.g., overhead power lines), FEMA may provide PA funding to remove those trees. Any further clearance of debris in the ROW is not eligible for FEMA funding.

(b) Conductor Replacement

For electrical transmission or distribution systems, determining the disaster-related damage to some components, such as poles, guys, and cross-arms, can usually be accomplished by visual inspection. However, determining the full extent of disaster-related damage to conductors is more challenging, particularly with older

Conductor Spans

The number of conductor spans is calculated by multiplying the number of conductors per span by the number of spans.

For example, a three-phase line section with three spans has 12 conductor spans:

4 conductors x 3 spans = 12

If a single conductor span has damage in more than one location, it only counts as one damaged conductor span. Similarly, if more than one conductor is damaged, it still only counts as one damaged span.

[293] 44 CFR § 206.226(i).

systems. A conductor is eligible for replacement when it is stretched beyond the point where it can be effectively repaired and re-sagged to meet appropriate clearances, sag, and tension, and to meet pre-disaster reliability.

A conductor is only eligible for replacement (reconductoring) when the Applicant cannot effectively repair it because one of the following exists within a line section:

- Twenty-five percent or more of the conductor spans have visible damage, such as broken strands, splices, or sleeves (installed as a result of the event) or severe pitting, burns, or kinks.
- Thirty percent or more of the line spans are visually stretched (out of sag), or do not meet clearance requirements such as conductor-to-conductor or conductor-to-ground clearance.
- Forty percent or more of the supporting poles need to be replaced or plumbed (straightened). A pole is considered to be in need of straightening if it is leaning such that it is unsafe to climb.
- Forty percent or more of the supporting structures (other than poles) have damage such as broken cross-arms, braces, ties, insulators, guys, pulled anchors, or bent pins. If more than one element of the support structure is damaged, it still only counts as one damaged support structure. If a pole is counted under the previous bullet, FEMA does not count the supporting structure under this criterion.
- Sixty-five percent or more of any combination of the damage described in the bullets above.
- Evidence provided by a licensed Professional Engineer that demonstrates the conductor is damaged beyond repair.

Terminology

A **line section** is a group of contiguous spans selected for evaluation. A span is the distance between two poles or structures.

An Applicant has flexibility in defining a line section. A line section can be:

- A single span
- All the spans between two dead-end structures
- All the spans on a feeder
- All the spans on a tap
- Any other group of contiguous spans that are evaluated together

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If the Applicant provides sufficient documentation establishing the pre-disaster condition and a line section of its system meets one of the six criteria above, that line section is eligible to be reconductored.

The use of #2 Aluminum Conductor Steel Reinforced (ACSR) is considered a lower cost alternative to replacing conductor with equal or lesser amperage capacity such as copper weld conductor, hard and soft drawn copper wire, smaller ACSR, and Amerductor. Therefore, if a conductor with equal or lesser amperage capacity to #2 ACSR is eligible for reconductoring, the line section is eligible to be replaced with #2 ACSR. When the Applicant replaces conductor with #2 ACSR, adjustments to other components of the electric distribution and transmission systems to accommodate #2 ACSR, including, but not limited to, adjusting span lengths between utility poles and increasing pole heights and standards to meet appropriate design requirements are eligible. The Applicant does not need to cite a code or standard for this additional work even though the appropriate design requirements may come from Federal, State, Territorial, Tribal, or

local codes or standards, including National Electrical Safety Code or Rural Utilities Service (RUS) standards.

If the Applicant prefers to reconductor a line with conductor of lesser amperage capacity than #2 ACSR, such as #4 ACSR (including associated adjustments in span lengths and pole heights), FEMA will provide PA funding for the work as long as the cost is less than the cost of reconductoring with #2 ACSR (including associated adjustments in span lengths and pole heights).

If the Applicant plans to upgrade its conductor to an amperage capacity above #2 ACSR, and there is no code or standard requiring the upgrade that meets the eligibility requirements discussed in B, the additional upgrades are not eligible and the Applicant must request an Improved Project.

If the damage does not meet the criteria for replacement, only the repair of the damaged line section(s) is eligible.

Documentation Supporting Pre-disaster Condition of a Conductor

To document the pre-disaster condition of a conductor, the Applicant should provide the following information:

- A signed, dated, and stamped letter from a licensed professional engineer who has direct experience with the damaged electrical transmission or distribution system certifying the pre-disaster capacity and condition of the conductor along with records providing satisfactory evidence of the pre-disaster capacity and condition of the conductor. Records may include, but are not limited to, maintenance records, contract documents, work orders, inspection logs, or a description of past inspection and maintenance activities certified by a licensed professional engineer.
- If available, copies of construction work plans demonstrating the utility's past practices and current and future projects.
- If required by RUS, a copy of any corrective action plans submitted to RUS in compliance with 7 CFR §1730.25, Corrective action (RUS borrowers only).

If the Applicant is able to provide the information above, FEMA does not require further documentation to establish pre-disaster condition. The Applicant is not precluded from substantiating the pre-disaster condition with other documentation if it is unable to provide the documentation described above.

5. Parks, Recreational, Other (Category G)

Eligible publicly owned facilities in this category include:

- Mass transit facilities such as railways
- Beaches
- Parks
- Playground equipment
- Swimming pools
- Bath houses
- Tennis courts
- Boat docks
- Piers
- Picnic tables
- Golf courses
- Ball fields
- Fish hatcheries
- Ports and harbors
- Other facilities that do not fit in Categories C–F

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Unimproved natural features are not eligible.

Plantings (such as trees, shrubs, and other vegetation) are eligible when they are part of the restoration of an eligible facility for the purpose of erosion control, to minimize sediment runoff, or to stabilize slopes, including dunes on eligible improved beaches.

Grass and sod replacement is eligible if it is an integral part of the restoration of an eligible recreational facility. Vegetation replacement is also eligible if necessary to restore the function of the facility (e.g., if vegetation is a component of a sewage filtration system).

Plantings required to mitigate environmental impacts, such as those required to address impacts to wetlands or endangered species habitat, are only eligible if required by a Federal, State, Territorial, Tribal, or local code or standard or permit that meets the criteria described in Chapter 2:VII.B.7.

Long-term monitoring to ensure vegetative growth is not eligible even if it meets the requirements above.

Plantings ineligible for replacement include, but are not limited to:

- Replacement of trees, shrubs, and other vegetation.
- Replacement of destroyed crops.
- Cosmetic or aesthetic vegetation, such as landscaping around public facilities or in median strips along roadways. This restriction applies even when the vegetation is damaged during performance of eligible work, such as when repairing underground utilities within landscaped areas.

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Beaches

Replacement of sand on beaches is only eligible under certain conditions, described below. A beach is considered an eligible facility when all of the following conditions exist:

- The beach is not a federally constructed shoreline under the specific authority of USACE;
- The beach was constructed by the placement of imported sand—of proper grain size—to a designed elevation, width, and slope;[294] and
- The Applicant has established and adhered to a maintenance program involving periodic renourishment with imported sand to preserve the original design.[295] Placement of sand under the following circumstances does not meet this requirement:
    - Emergency or "one-time" nourishment, even if to a design

Documentation Supporting Eligibility of a Beach

To document eligibility of a beach as a designed and maintained facility, the Applicant should provide the following information:

- All design studies, plans, construction documents, and as-builts for the original nourishment;
- All studies, plans, construction documents, and as-builts for every renourishment;
- Documentation and details of the maintenance plan, including how the need for renourishment is determined and funded; and
- Pre-and post-storm profiles that extend at least to the seaward edge of the sub-aqueous nearshore zone (closure depth, usually -15 to -20 feet). (See Figure 15)

[294] 44 CFR § 206.226(j)(2)(i).
[295] 44 CFR § 206.226(j)(2)(ii).

- Emergency or “as-needed” renourishments when the beach has eroded to a critical condition where all of the original nourishment is gone
- Partial renourishments or “hot-spot” nourishments
- Renourishment using material from a channel maintenance project, because dredge spoils do not meet compatibility design criteria and the amount placed is dependent on the amount dredged, not the beach design

The amount of sand eligible for replacement is limited to the amount lost as a result of the incident. FEMA uses the pre- and post-storm profiles of the beach to determine the eligible volume of sand for replacement. If pre-storm profiles are not available, FEMA estimates the amount of sand lost using design documents and renourishment history.

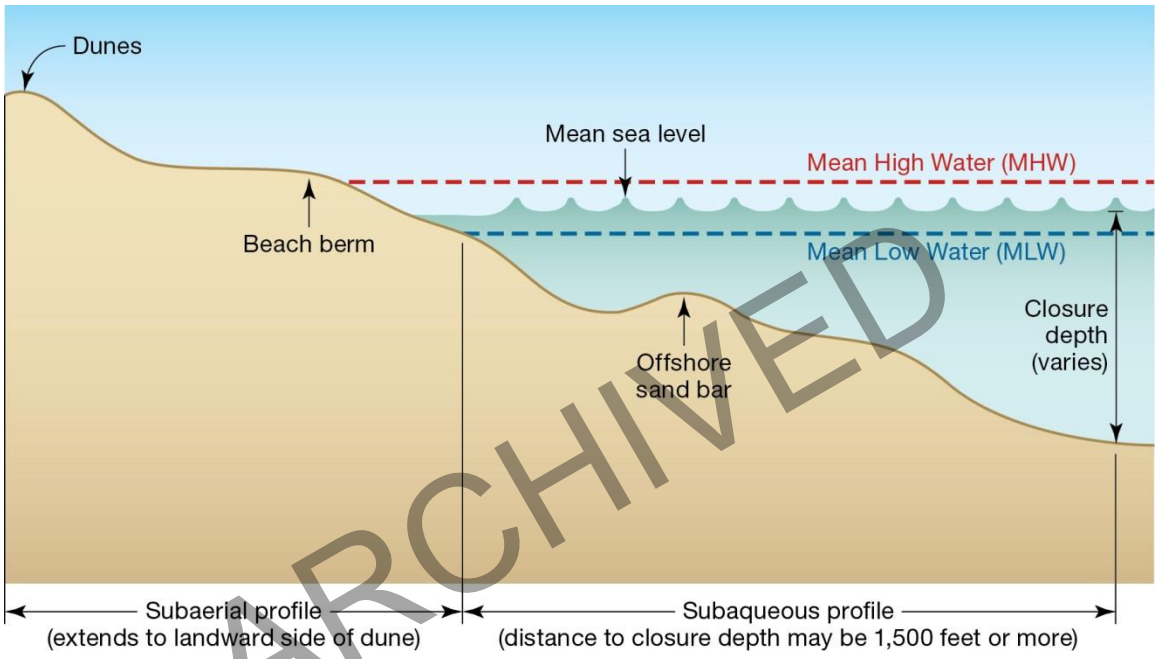

Figure 15. Typical Beach Profile

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Replacing sand that eroded prior to the incident is not eligible. However, the Applicant is encouraged to renourish the project to achieve the design profile.

If removal of sand from a maintained facility is eligible, disposal of the sand spoils on a public beach may be eligible as part of that project when it is the most cost-effective method of disposal.

6. Landslides and Slope Stabilization

If an eligible facility is located on a slope and is damaged as a result of a landslide or slope instability triggered by the incident, FEMA determines the stability of the slope that supports the facility before it approves PA funding to restore the facility. Restoration of the integral ground that supports the facility may also be eligible. The impact of slope stability on eligibility is as follows:

Terminology

Integral ground refers to only the ground necessary to physically support a facility.

Integral ground may be natural or improved ground upon which an eligible facility is located and that is essential to support the structural integrity and utility of the facility.

- If the site is stable, permanent restoration of the facility and its integral ground is eligible.
- If the site is unstable and there is no evidence of pre-disaster instability after the facility was constructed, permanent restoration of the facility and its integral ground is eligible, including measures to stabilize the integral ground.
- If the site is unstable and there is evidence of pre-disaster instability after the facility was constructed, restoration of the facility's integral ground is not eligible. Restoration of the facility is eligible only upon the Applicant stabilizing the site and restoring the integral ground.

Site inspections and limited geotechnical assessments to determine site stability and to obtain a technical opinion of the cause of the slope failure are eligible.

Permanent repair to stabilize natural ground that is not integral to an eligible facility's function is not eligible.

FEMA may approve permanent relocation of the facility if the facility is subject to repetitive heavy damage and relocation is cost-effective. Eligible costs for relocation are described in E.

An Applicant may request an Alternate Project if restoration of the facility is not feasible because of soil instability.

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CHAPTER 3: PUBLIC ASSISTANCE PROGRAM ADMINISTRATION

This chapter provides information on each phase of the Public Assistance (PA) Program implementation process, including project development and requirements for administering the PA Program award. Figure 16 provides an overview of the entire process.

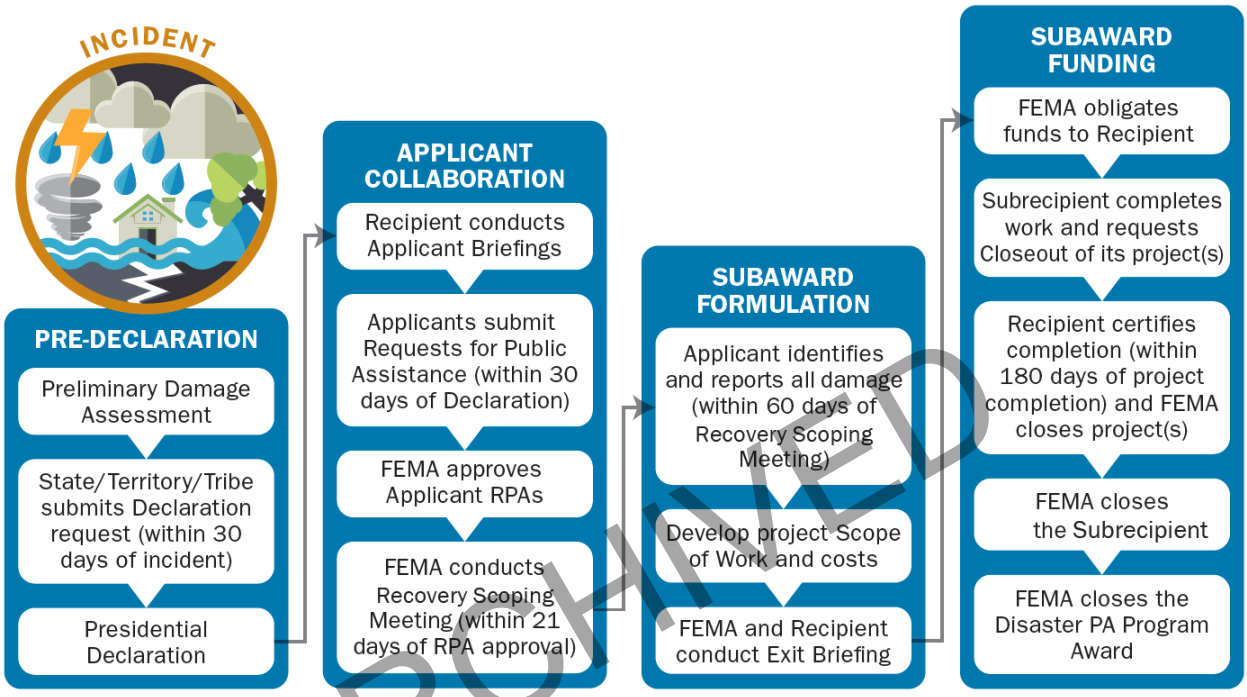

Figure 16. PA Program Implementation Process

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I. Initial Collaboration

FEMA and the Recipient work in partnership to administer the PA Program.

A. Preliminary Damage Assessment

When a Tribal or local government determines an incident exceeds its capabilities to respond, it requests assistance from the State. If the State subsequently determines that the incident may exceed the combined capabilities of the State, Tribal, and local governments to respond, it requests that FEMA join the State, Tribal, and local governments to assess the impacts and magnitude of damage.[296] FEMA refers to this as a joint Preliminary Damage Assessment (PDA).[297] When a Tribal Government is applying as a Recipient, it may request a damage assessment directly from FEMA.

[296] 44 CFR § 206.33(a).
[297] 44 CFR § 206.33(b).

The Governor or Indian Tribal Chief Executive must request a declaration[298] from the President through FEMA within 30 days of the incident.

B. Applicant Briefing

As soon as possible following the President's declaration, the Recipient conducts briefings for all potential Applicants (i.e., State, Territorial, Tribal, and local government entities and private nonprofits (PNPs)).[299] The Recipient is responsible for notifying potential Applicants of the date, time, and location of the Applicant Briefing. During these briefings, the Recipient provides high-level information regarding the PA Program, such as:

- Application procedures
- Project funding
- Hazard mitigation
- Administrative requirements
- Procurement requirements
- Environmental and historic preservation (EHP) compliance requirements
- General eligibility criteria
- Documentation requirements
- Recordkeeping

To obtain maximum benefit from the information presented at the briefing, a potential Applicant should:

- Send representatives from its management, emergency response, public works, and accounting/finance/procurement operations; and
- Designate a primary point of contact to interact with the Recipient and FEMA.

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C. Request for Public Assistance

If a State, Territorial, Tribal, or local government entity or PNP wishes to seek PA funding, it must first submit a Request for Public Assistance (RPA) to FEMA, through the Recipient, within 30 days of the respective area being designated in the declaration.[300] The RPA (FEMA Form 90-49)[301] is the form to apply for the PA Program; FEMA also refers to it as a pre-application. Given the necessity to collaborate with Applicants early in the PA Program implementation process, FEMA's expectation is that the Recipient collect RPAs as soon as possible after the respective area is designated in the declaration or at the conclusion of the Applicant Briefing. However, FEMA accepts RPAs up to the 30-day deadline. If a Tribal Government is its own Recipient, it submits its RPA directly to FEMA. FEMA may extend the deadline for submitting an RPA if the Recipient submits a request in writing with justification based on extenuating circumstances beyond the Applicant's or Recipient's control.[302]

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[298] Information and forms for Presidential declaration requests are available at www.fema.gov/media-library/assets/documents/28122.
[299] 44 CFR § 206.207(b)(1)(iii)(B).
[300] 44 CFR § 206.202(c).
[301] www.fema.gov/media-library/assets/documents/10145.
[302] 44 CFR § 206.202(f)(2).

Using the RPA, the Applicant provides general information about its organization, including physical location and point of contact. The RPA must indicate the Applicant's active Dun and Bradstreet (DUNS) number. If the Applicant does not have an active DUNS number, it may request one at: www.dnb.com/get-a-duns-number.html. Table 5 indicates the RPA documentation required for PNPs.

FEMA and the Recipient review the RPA to determine whether the Applicant is eligible for assistance.[303] See Chapter 2:II for a detailed discussion on Applicant eligibility. Once FEMA approves the RPA, it assigns a PA representative to that Applicant. The PA representative is a program expert who serves as the Applicant's customer service agent on PA Program matters and manages FEMA's processing of the Applicant's projects.

Table 5. PNP RPA Documentation Requirements

PNP RPA Documentation Requirements
All PNP Applicants
☐ PNP Facility Questionnaire (FEMA Form 90-121) available at www.fema.gov/media-library/assets/documents/10579.
☐ A current ruling letter from the Internal Revenue Service granting tax exemption under sections 501(c), (d), or (e) of the Internal Revenue Code of 1954; OR documentation from the State substantiating it is a non-revenue producing, nonprofit entity organized or doing business under State law
☐ If the Applicant owns the facility, proof of ownership
☐ If the Applicant leases the facility, proof of legal responsibility to repair the incident-related damage
☐ List of services provided in the facility and when and to whom
Membership Organization
☐ Who is allowed membership
☐ What fees are charged
☐ Policy regarding waiving memberships
Education/School
☐ Proof that the school is accredited or recognized by the State Department of Education
Child Care Facility
☐ Proof that the State Department of Children and Family Services, Department of Human Services, or similar agency, recognizes it as a licensed child care facility
Mixed-Use Facility
☐ Proof of the established purpose of the facility with documentation such as: • Pre-disaster charter, bylaws, and amendments • Calendar of activities

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D. Recovery Scoping Meeting

FEMA or the Recipient's PA representative should contact the Applicant to schedule an initial meeting (Recovery Scoping Meeting) within 10 days of receiving notice of RPA approval. If the Applicant is not contacted after 10 days, it should call the Recipient to arrange the meeting.

[303] 44 CFR § 206.207(b)(1)(iii)(C).

Unless there are extenuating circumstances, FEMA and the Recipient should conduct the Recovery Scoping Meeting within 21 days of approval of the RPA.

While the Applicant Briefing is designed to address high-level information for all potential Applicants, the Recovery Scoping Meeting is designed to address the specific needs of each eligible Applicant. At the Recovery Scoping Meeting, FEMA, the Recipient, and the Applicant discuss:

- Details of the Applicant's impacts from the incident
- Hazard mitigation opportunities
- Eligibility criteria for work and costs
- Project formulation
- Insurance requirements
- EHP compliance requirements
- Documentation requirements
- Appeal process

The Applicant should ensure staff with knowledge of the incident-related damage, emergency activities performed, and related costs attend the meeting (e.g., public works official, finance staff, risk manager). The Applicant should be prepared to provide the information in Table 6 at the Recovery Scoping Meeting.

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Table 6. Applicant Documentation for the Recovery Scoping Meeting

Applicant Documentation to Provide at Recovery Scoping Meeting
A list of all impacts by site, including:
☐ Map of jurisdiction showing all sites
☐ Specific location of debris impacts and facility damage using either the address or U.S. National Grid (USNG) location
☐ Facility names
☐ Documentation to support legal responsibility • Deeds • Titles • Lease agreements • Contracts for facilities under construction
☐ Whether the facility was damaged in a prior incident
☐ Pre-incident photographs of impacted site or facility, if available
☐ Photographs of debris impacts or facility damage • Estimated quantities of debris by type • Brief description of damage with dimensions
☐ Emergency Work activities
☐ Estimated costs
☐ Whether the project is high priority
☐ Proposed, or completed, repair scope of work, including hazard mitigation measures

Applicant Documentation to Provide at Recovery Scoping Meeting
☐ Whether the work is complete • Summary of actual costs for completed work, including support documentation • Professional cost estimates for uncompleted work, if available ☐ Who performed, or will perform, the work
☐ Potential environmental issues or historic preservation concerns ☐ Age of the facility ☐ Age of nearby facilities that may be affected by the project ☐ Debris reduction and disposal sites ☐ Summary of insurance coverage, including copy of policy, schedule of values, statements of loss, and settlement documents

II. Project Formulation

FEMA and the Recipient work with the Applicant to formulate incident-related damage and work into projects (i.e., subawards) based on logical groupings of the damage and work.[304] This process is a collaborative effort beginning at the Recovery Scoping Meeting and concluding with an Exit Briefing.

FEMA uses the Project Worksheet (PW) (FEMA Form 90-91)[305] as the Subaward Application. FEMA uses the PW to document details of the Applicant's project, including a detailed description of the disaster-related damage and dimensions and the associated scope of work (SOW) and costs. If the project involves multiple locations, FEMA may use site sheets to differentiate damage, work, and costs by site within the PW.[306] The disaster damage and dimensions, SOW, and costs for each site are documented on separate site sheets.

This section provides information on the project formulation process. FEMA's *Public Assistance Program Field Operations Pocket Guide* (FEMA P-1011) addresses these processes in detail.[307]

Additionally, FEMA requires documentation to support that the work is eligible in accordance with laws, regulations, Executive Orders (EOs), and policies. This chapter provides checklists of documentation that may support eligibility. These checklists are not all-inclusive lists. Documentation should provide the "who, what, when, where, why, and how much" for each item claimed. If the specific documentation discussed below is not available, FEMA and the Recipient work with the Applicant to obtain alternative documentation to support eligibility. However, it is the Applicant's responsibility to substantiate its claim as eligible. If the Applicant does not provide sufficient documentation to support its claim as eligible, FEMA cannot provide PA funding for the work.

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[304] 44 CFR § 206.201(l).
[305] www.fema.gov/media-library/assets/documents/9720.
[306] 44 CFR § 206.201(l)(2).
[307] www.fema.gov/media-library/assets/documents/95650.

A. Identify and Report Damage

The Applicant is required to identify and report all of its disaster-related damage, Emergency Work activities, and debris quantities to FEMA within 60 days of the Recovery Scoping Meeting.[308] FEMA may extend the deadline for identifying and reporting damage if the Recipient submits a request in writing with justification based on extenuating circumstances beyond the Recipient's or Applicant's control.[309] For example, if a site is inaccessible, FEMA may extend the deadline for that site.

FEMA and the Recipient conduct site inspections with the Applicant to validate, quantify, and document the cause, location, and details of the reported damage and debris impacts and identify EHP issues and hazard mitigation opportunities within this 60-day period. Table 7 lists information that FEMA may request to determine the eligibility of damage claimed.

FEMA, the Recipient, and the Applicant should reach agreement on the disaster-related damage description and dimensions, emergency protective measures, and debris impacts before proceeding with SOW development.

Expedited Funding

If an Applicant has an immediate need for Emergency Work funding, FEMA may provide funding based on estimated costs provided the Applicant substantiates its legal responsibility for the work and provides a detailed description of the activities, a cost summary, and sufficient documentation to substantiate that the work is eligible and the cost estimate is reasonable. If the funding is related to debris removal, the Applicant must also provide debris quantities, locations, and documentation to substantiate environmental compliance. FEMA must validate the eligibility of the debris quantities and locations. FEMA will not provide funding based on estimated costs for a debris removal project funded under the Accelerated Debris Removal Alternative Procedure (Chapter 2:VI.A.1.a).

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Table 7. Documentation to Support Damage Claim

Documentation Supporting Immediate Threats, Debris Impacts, or Damage
The following information is obtained, or validated, during the site inspection (not an all-inclusive list).
☐ The Information listed in Table 6, if not previously provided
For Emergency Work:
☐ Description of immediate threat
☐ Records demonstrating presence of immediate threat (e.g., technical reports, safety inspector report, photographs)
☐ Additionally, for debris specifically: • Actual debris quantities by type • For waterway debris, documentation supporting pre-and post-incident levels, such as waterway soundings

[308] 44 CFR § 206.202 (d)(1)(ii).
[309] 44 CFR § 206.202 (f)(2),

Documentation Supporting Immediate Threats, Debris Impacts, or Damage
For Permanent Work: ☐ Photographs of site, overall facility, and specific damage ☐ Detailed description of damage with specific dimensions ☐ Drawings, sketches, and plans (to scale) of disaster-related damage ☐ Plans and specifications showing pre-disaster design of the facility ☐ Documentation supporting pre-disaster condition of facility (e.g., facility maintenance records, inspection/safety reports) For electric transmission and distribution facility conductors specifically: • A signed, dated, and stamped letter from a licensed Professional Engineer who has direct experience with the damaged electrical transmission or distribution system certifying the pre-disaster condition of the conductor along with records providing satisfactory evidence of the pre-disaster capacity and condition of the conductor. Records may include, but are not limited to, maintenance records, contract documents, work orders, inspection logs, or a description of past inspection and maintenance activities certified by a licensed Professional Engineer. • Construction work plans demonstrating the utility's past practices and current and future projects. • If required by the Rural Utilities Service (RUS), a copy of any corrective action plans submitted to RUS in compliance with Title 7 of the Code of Federal Regulations (CFR) § 1730.25, Corrective action (RUS borrowers only). • Staking sheets.

B. Develop Scope of Work

Once FEMA, the Recipient, and the Applicant agree on the damage description and dimensions, the Applicant provides its proposed SOW, including its hazard mitigation proposal (HMP) or, if the work is finished, the completed SOW for each of its projects.

For Emergency Work, the SOW includes work required to address immediate threats and to remove debris. For Permanent Work, the SOW includes a description of how the Applicant plans to repair, or has repaired, the damage, including repair dimensions and HMP description and dimensions.

If the SOW has a potential of impacting environmental or historic resources, FEMA EHP staff review the SOW to determine if modifications would reduce potential impacts.

Some projects may require an engineering analysis to determine the method of repair. In these cases, FEMA may provide PA funding for engineering and design services. Once the Applicant determines its preferred method of repair, it must submit a detailed SOW and cost estimate for FEMA's review. Table 8 lists information necessary to develop the SOW.

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Table 8. Information to Develop Scope of Work

Information to Develop Scope of Work
The Applicant should provide the following for each site (not an all-inclusive list):
☐ Site map showing the location of all proposed project components and the extent of ground disturbance (including any staging areas, access roads, parking, landscaping, grading, or utilities)
For emergency protective measures:
☐ Description of emergency response activities
For debris removal:
☐ Quantities of debris removed, reduced, disposed, and recycled (by type) with a representative sampling of load tickets to support quantities
☐ Debris monitor reports
☐ Pick-up locations
☐ Address and/or U.S. National Grid (USNG) location of temporary reduction sites and permanent disposal sites, including recycling locations • Copies of permits for reduction and disposal sites • Lease agreement if applicable
☐ For abandoned vehicles and vessels, documentation supporting that the Applicant followed applicable ordinances or laws for private vehicle and vessel removal
For Permanent Work:
☐ Drawings, sketches, and plans (to scale) of proposed or completed repair
☐ Applicable design requirements
☐ Applicable repair/reconstruction codes or standards and documentation to support they have been formally adopted, implemented, and uniformly applied
☐ Replacement projects: estimate for 50% Rule calculations
☐ Relocation projects: justification for relocation request
☐ HMPs, including Benefit-Cost Analyses (BCAs) when necessary
☐ Hydrologic and hydraulic studies that address potential upstream and downstream impacts (if applicable)
☐ Technical studies, reports, and assessments (including environmental assessments)
☐ Historic property designations or surveys, including archaeological surveys
☐ Copies of permits and correspondence with regulatory agencies • State, Territorial, or Tribal Historic Preservation Officer (historic properties) • U.S. Army Corps of Engineers (work involving dredging or discharging dredged materials or fill in waterways or wetlands) • U.S. Fish and Wildlife Service (federally listed threatened and endangered species, migratory birds, work in Coastal Barrier Resource System areas, work in or near waterways or wetlands) • National Marine Fisheries Service (federally listed threatened and endangered species, work in or near waterways or wetlands) • State, Territorial, or Tribal environmental agencies

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C. Change in Scope of Work

While proceeding with the project, the Applicant must ensure that it uses PA funding only for eligible work. The Applicant should engage the Recipient and FEMA as soon as it identifies a change to the SOW to allow FEMA time to review changes for eligibility and EHP compliance

requirements prior to commencement of work. If the Applicant begins work associated with a change before FEMA review and approval, it will jeopardize PA funding.

With the exception of Permanent Work Alternative Procedures Projects, FEMA may approve revisions under any of the following circumstances (this is not an all-inclusive list):

- The Applicant discovers damage not visible during the site inspection. The Applicant must report this damage within 60 days of the Recovery Scoping Meeting.
- The Applicant discovers hidden damage during the course of completing previously approved work.
- The repair method documented in the PW is not feasible.
- Professional recommendations for repair differ from the repair documented in the PW, provided the recommendations are limited to the least costly method of repairing only the agreed upon disaster-related damage.
- The PW contains inadvertent errors or omissions.
- The Applicant wishes to pursue an Improved or Alternate Project.

A change requires a written request from the Applicant to the Recipient, including detailed justification and documentation to support the eligibility of the requested revision.[310] If the request involves previously unreported damage, the Applicant must also provide documentation demonstrating how the incident caused the damage. Table 9 indicates the information necessary for FEMA to evaluate a request for a change in SOW.

The Recipient must forward the request to FEMA with its written recommendation.[311]

FEMA engages subject matter experts for technical assistance when necessary to reach a determination of whether the requested change is eligible for PA funding.

Changes in SOW due to one of the following reasons are generally eligible:

- Alternate repair method is more cost-effective than the original proposed repair method
- Original repair method is not technically feasible
- Increase in previously approved quantities due to errors and omissions
- Hidden damage is discovered during construction and is disaster-related

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[310] 44 CFR § 206.204(e).
[311] Ibid.

Table 9. Information to Support Change in SOW

Information to Support Change in SOW
Change in SOW requests should be submitted prior to the approved project deadline and include the following (not an all-inclusive list): ☐ Detailed changes to SOW and cost estimate ☐ Reason for changes • If more cost-effective repair: both cost estimates • If original SOW not feasible: supporting documentation such as technical reports • If hidden damage (must be found during performance of eligible work): • Documentation substantiating the damage is related to the declared incident • Photographs documenting damage • Change orders ☐ Construction timeline / project schedule • Time extension, if necessary (include information in Table 11)

D. Develop Project Cost

FEMA or the Recipient prepares the PW based on actual or estimated costs as follows:

- If the Applicant has completed the SOW, the PW is prepared based on actual costs.
- If the Applicant has not completed the SOW, FEMA or the Applicant estimates the costs.

Small Project Preparation

In addition to FEMA or the Recipient, Applicants may also prepare Small Project PWs with FEMA validation. If the Applicant prepares its own Small Projects, it must submit them to FEMA for validation within 60 days of the Recovery Scoping Meeting. See Chapter 3:IV.B for the differentiation between Small and Large Projects.

FEMA uses the Applicant's cost estimate if the estimate:

- Is prepared by a licensed Professional Engineer or other estimating professional, such as a licensed architect or certified professional cost estimator[312] who certifies that the estimate was prepared in accordance with industry standards;
- Includes certification that the estimated cost directly corresponds to the repair of the agreed upon damage;
- Is based on unit costs for each component of the SOW and not a lump sum amount;
- Contains a level of detail sufficient for FEMA to validate that all components correspond with the agreed-upon SOW; and
- Is reasonable.

If the Applicant lacks the resources, it may request technical assistance from FEMA to develop the cost estimates. Table 10 lists the information that the Applicant should submit to support costs claimed.

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[312] In lieu of a license or certification, an individual with professional experience and proficiency in the field of cost estimating may prepare and sign the cost estimate.

Table 10. Documentation to Support Costs Claimed

Documentation to Support Costs Claimed
The Applicant should submit the following to support costs claimed (not an all-inclusive list): **Applicant (Force Account) Labor and Prisoner Labor:** For each individual: ☐ Name ☐ Job title and function ☐ Type of employee (i.e., full-time exempt, full-time non-exempt, part-time, temporary, prisoner, etc.) ☐ Days and hours worked ☐ Pay rate(s) and fringe benefit rate(s) ☐ Description of work performed with representative sample of daily logs / activity reports, if available ☐ Representative sample of timesheets ☐ Fringe benefit calculations ☐ Pay policy **Applicant-Owned (Force Account) Equipment:** For each piece of equipment: ☐ Type of equipment and attachments used, including year, make, and model ☐ Size/capacity (e.g., horsepower, wattage) ☐ Locations and days and hours used with usage logs ☐ Operator name ☐ Schedule of rates, including rate components **Rented or Purchased Equipment:** ☐ Rental or lease agreements, invoices, receipts ☐ Days used **Supplies from Stock:** ☐ Historical cost records ☐ Inventory records ☐ Type of supplies and quantities used, with support documentation such as daily logs **Purchased Supplies:** ☐ Receipts or invoices **Contracts:** ☐ Procurement policy ☐ Procurement and bid documents ☐ For procurements in excess of the simplified acquisition threshold, a cost/price analysis ☐ Contracts, change orders, and invoices ☐ Dates worked ☐ For time and materials (T&M) contracts, monitoring documentation **Mutual aid:** ☐ Written agreement ☐ Services requested and received ☐ Same information listed for labor, equipment, and supplies above (as applicable) ☐ Invoices

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Documentation to Support Costs Claimed
Donated Resources: For each individual: ☐ Name ☐ Days and hours worked ☐ Location of work and work performed Equipment: ☐ Same information listed under Applicant-Owned Equipment above ☐ Who donated each piece of equipment Supplies or materials: ☐ Quantity donated ☐ Who donated ☐ Location(s) used **Cost Estimates:** ☐ Cost estimate for the agreed-upon SOW developed with unit costs ☐ Qualifications of the company or individual who prepared the cost estimate **Cost reasonableness (if requested by FEMA):** ☐ Documentation showing current market price for similar goods or services, such as: • Historical documentation; • Average costs in the area; or • Published unit costs from national cost estimating databases. ☐ Documentation supporting necessity of unique services or extraordinary level of effort ☐ Documentation supporting shortages, challenging procurement circumstances, and length of time shortages or procurement challenges existed, such as: • News stories • Supply chain vendor reports For Direct Administrative Costs (DAC): ☐ Specific description of administrative task performed by individual ☐ Skill level and position description of individual performing task **Other:** ☐ Documentation regarding cash donations or other funding received ☐ Cost comparisons and source documentation, if applicable ☐ Actual insurance proceeds, if available

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E. Project Documentation

The Applicant must maintain all source documentation supporting the project costs.[313] To facilitate closeout and audits, the Applicant should file all documentation pertaining to each project with the corresponding PW as the permanent record of the project.

The Recipient and the Applicant must keep all financial and program documentation for 3 years after the date of the Recipient's final Financial Status Report (FSR) (FEMA Form 112-0-1).[314] Records are subject to audit by State auditors, FEMA, the U.S. Department of Homeland Security Office of Inspector General, and the U.S. Government Accountability Office.[315]

[313] 2 CFR § 200.302.
[314] 2 CFR § 200.333; www.fema.gov/media-library/assets/documents/29496.
[315] 2 CFR § 200.336.

F. Exit Briefing

FEMA and the Recipient conduct an Exit Briefing with the Applicant when project formulation is complete and all claimed damage is documented.

FEMA uses this meeting to:

- Ensure all claimed damage is sufficiently and accurately documented
- Discuss record retention requirements
- Explain deadlines for completion of work and appeals
- Review EHP compliance issues
- Transition primary point-of-contact from field personnel to the Recipient
- Discuss questions or concerns

III. Project Deadlines

FEMA only provides PA funding for work completed and costs incurred[316] within regulatory deadlines (See Figure 17). The deadline for Emergency Work is 6 months from the declaration date. The deadline for Permanent Work is 18 months from the declaration date.[317] FEMA considers these timeframes to be a project's period of performance.

Deadlines for Completion of Work	
Type of Work	Months
Emergency Work	6
Permanent Work	18

Figure 17. Regulatory Project Deadlines

If the Applicant determines it needs additional time to complete the project, including direct administrative tasks related to the project, it must submit a written request for a time extension to the Recipient with the following information:

- Documentation substantiating delays beyond its control;
- A detailed justification for the delay;
- Status of the work; and
- The project timeline with the projected completion date.[318]

The Recipient has authority to extend deadlines for individual projects based on extenuating circumstances. It may extend Emergency Work projects by 6 months[319] and Permanent Work projects by 30 months.[320] FEMA has authority to extend individual project deadlines beyond these timeframes if extenuating circumstances justify additional time.[321]

With exception of debris removal operations funded under the Accelerated Debris Removal Procedure of the Alternative Procedures Pilot Program, FEMA generally considers the following to be extenuating circumstances beyond the Applicant's control:

- Permitting or EHP compliance related delays due to other agencies involved
- Environmental limitations (such as short construction window)

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[316] 2 CFR § 200.309 and 44 CFR § 206.204(d)(2).
[317] 44 CFR § 206.204(c)(1).
[318] 44 CFR § 206.204(d)(2).
[319] The Recipient may not grant time extensions on debris removal projects funded under the Accelerated Debris Removal Alternative Procedure.
[320] 44 CFR § 206.204(c)(2)(ii).
[321] 44 CFR § 206.204(d).

- Inclement weather (site access prohibited or adverse impact on construction)

FEMA generally considers the following to be circumstances within the control of the Applicant and not justifiable for a time extension:

- Permitting or environmental delays due to Applicant delays in requesting permits
- Lack of funding
- Change in administration or cost accounting system
- Compilation of cost documentation

Although FEMA only provides PA funding for work performed on or before the approved deadline, the Applicant must still complete the approved SOW for funding to be eligible.[322] FEMA deobligates funding for any project that the Applicant does not complete. If the Applicant completes a portion of the approved SOW and the completed work is distinct from the uncompleted work, FEMA only deobligates funding for the uncompleted work. For example, if one project includes funds for three facilities and the Applicant restores only two of the three facilities, FEMA only deobligates the amount related to the facility that the Applicant did not restore.

Table 11 indicates the information that the Applicant should submit to support a request for a time extension.

Table 11. Information to Support Time Extension

Information to Support Time Extension
Request should be submitted prior to current approved deadline, be specific to one project, and include the following information with supporting documentation: ☐ Dates and provisions of all previous time extensions ☐ Construction timeline / project schedule in support of requested time ☐ Basis for time extension request: • Delay in obtaining permits • Permitting agencies involved and application dates • Environmental delays or limitations (e.g., short construction window, nesting seasons) • Dates of correspondence with various agencies • Specific details • Inclement weather (prolonged severe weather conditions prohibited access to the area, or adversely impacted construction) • Specific details • Other reason for delay • Specific details

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IV. Project Funding

The PW contains the information necessary for authorized FEMA personnel to review and approve the SOW and costs. If approved, FEMA obligates the Federal share of the eligible

[322] 44 CFR § 206.204(d)(2).

project cost to the Recipient.[323] Once obligated, the PW constitutes the official record of the approved SOW for the project.

Funds that FEMA has obligated are available to the Recipient via electronic transfer and reside in a Federal account until the Recipient provides the funds to the appropriate Applicant.[324] The Recipient is responsible for notifying the Applicant that funds are available.[325]

A. Strategic Funds Management

Strategic Funds Management is FEMA's process for obligating PA funding based on the Applicant's schedule to execute the work. If a Permanent Work project is greater than $1 million and the Applicant does not need funds for more than 180 days from the time the PW is ready for obligation, FEMA obligates funds based on the project completion schedule. FEMA's *Strategic Funds Management – Implementation Procedures for the Public Assistance Program* (FEMA SOP 9570.24) addresses this obligation process in detail.[326]

B. Project Thresholds

FEMA establishes a minimum project threshold for each Federal fiscal year. The threshold applies to incidents declared within that fiscal year and is based on the Consumer Price Index. If a PW totals less than the minimum threshold[327] after the Applicant has accounted for all project costs—including DAC and reductions to avoid duplication of benefits—the project is not eligible.[328] This limitation applies to each PW and not to each site sheet used in one PW. Because of the administrative cost involved, FEMA does not process PWs under the minimum threshold unless the Applicant is eligible, is disputing the SOW or costs, and is planning to appeal an amount that would increase the project amount to at least the minimum threshold.

Additionally, FEMA does not combine work among several sites or projects onto one PW for the **sole** purpose of reaching the minimum threshold.

FEMA also establishes a dollar threshold each Federal fiscal year for the implementation of Simplified Procedures under Section 422 of the Stafford Act. This threshold defines a project as large or small.[329] FEMA categorizes projects as large or small based on the final approved amount of eligible costs after any cost adjustments, including insurance reductions:

- A Large Project is a PW with a cost equal to or greater than the threshold.
- A Small Project is a PW with a cost below the threshold.[330]

The threshold applies to incidents declared within that fiscal year. FEMA administers funding for Large and Small Projects differently. For Large Projects that are not capped projects, FEMA adjusts any estimated costs to the actual incurred amount so that the final approved funding is

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[323] 44 CFR § 206.202(e).
[324] 44 CFR § 206.200(b)(2)(ii).
[325] 44 CFR § 206.200(2)(i).
[326] www.fema.gov/media-library/assets/documents/30301.
[327] The minimum threshold is available at: www.fema.gov/public-assistance-indicator-and-project-thresholds.
[328] 44 CFR § 206.202(d)(2).
[329] The project threshold amount is available at: www.fema.gov/public-assistance-indicator-and-project-thresholds.
[330] Stafford Act § 422, 42 U.S.C. § 5189, and 44 CFR § 206.203(c).

based on actual costs.[331] For Small Projects, FEMA does not adjust estimated costs to the actual incurred amount.[332]

C. Project Reconciliation and Closeout

The purpose of closeout is for the Applicant to certify that all work has been completed.[333] FEMA closes Large Projects individually as each is completed.[334] FEMA closes all Small Projects together when the last Small Project is completed.[335] To ensure a timely closeout process, the Applicant should notify the Recipient immediately as it completes each Large Project and when it has completed its last Small Project.

The Subrecipient should include the following information with its closeout request:

- Certification that project is complete;
- Date of project completion; and
- Copies of any Recipient time extensions.

1. Large Projects

With exception of Capped Projects, the final eligible amount for a Large Project is the actual documented cost of the completed, eligible SOW.[336] Therefore, upon completion of each Large Project that FEMA obligated based on an estimated amount; the Subrecipient should provide the documentation in Tables 8 and 10 to support the actual costs.[337] If the actual costs significantly differ from the estimated amount, the Subrecipient should provide an explanation for the significant difference.[338]

The Recipient must certify that all incurred costs are associated with the approved SOW and that the Subrecipient completed all work in accordance with FEMA regulations and policies.[339] The Recipient must submit its certification of the Applicant's completion of each Large Project with the final payment of claim[340] and supporting documentation to FEMA within 180 days of the project deadline.[341] The Recipient must submit its certification of each of its own Large Projects within 180 days of the project deadline.

FEMA reviews the documentation and, if necessary, obligates additional funds or reduces funding based on actual costs to complete the eligible SOW.[342]

If the project included approved hazard mitigation measures; FEMA does not re-evaluate the cost-effectiveness of the HMP based on the final actual cost. If during the review, FEMA determines that the Subrecipient performed work that was not included in the approved SOW,

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[331] 44 CFR § 206.205(b).
[332] 44 CFR § 206.205(a).
[333] 2 CFR § 200.343.
[334] 44 CFR § 206.205(b).
[335] 44 CFR § 206.205(a).
[336] 44 CFR § 206.203(c)(1).
[337] 44 CFR § 206.205(b)(1).
[338] 44 CFR § 206.204(e).
[339] 44 CFR § 206.205(b)(1).
[340] This means the final claim for PA funding for the project.
[341] 2 CFR § 200.343.
[342] 44 CFR § 206.205(b)(2).

FEMA will designate the project as an Improved Project, cap the funding at the original estimated amount, and review the additional SOW for EHP compliance.[343]

For Capped Projects, the Applicant must provide documentation to support that it used the funds in accordance with the eligibility criteria described in Chapter 2:VII.G and guidance provided at www.fema.gov/alternative-procedures.

Once FEMA completes the necessary review and funding adjustments, FEMA closes the project.

2. Small Projects

Once FEMA obligates a Small Project, FEMA does not adjust the approved amount of an individual Small Project. This applies even when FEMA obligates the PW based on an estimate and actual costs for completing the eligible SOW differ from the estimated amount. FEMA only adjusts the approved amount on individual Small Projects if one of the following conditions applies:

- The Subrecipient did not complete the approved SOW;
- The Subrecipient requests additional funds related to an eligible change in SOW;
- The PW contains inadvertent errors or omissions; or
- Actual insurance proceeds differ from the amount deducted in the PW.

In these cases, FEMA only adjusts the specific cost items affected.

If none of the above applies, the Subrecipient may request additional funding if the total actual cost of all of its Small Projects combined exceeds the total amount obligated for all of its Small Projects. In this case, the Subrecipient must request the additional funding through the appeal process, described in Chapter 3:IV.D, within 60 days of completion of its last Small Project.[344] FEMA refers to this as a net small project overrun appeal. The appeal must include actual cost documentation, as detailed in Tables 8 and 10, for all Small Projects that FEMA originally funded based on estimate amounts.[345]

To close Small Projects, the Recipient must certify that the Subrecipient completed the approved SOWs for all of its Small Projects and complied with all EHP requirements.[346] The Recipient must submit the certification of completion of all small projects to FEMA within 180 days from the approved deadline of its last Small Project. The Recipient must submit its certification of completion of all of its Small Projects within 180 days of the approved deadline of its last small project. [347] Once FEMA receives the Recipient's certification, FEMA closes all of the Subrecipient's Small Projects.

D. Appeals

The Applicant may appeal any FEMA determination related to an application for, or the provision of, assistance under the PA Program.[348] For Alternative Procedures Projects, the

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[343] 44 CFR § 206.203(d)(1).
[344] 44 CFR § 206.204(e)(2).
[345] 44 CFR § 206.204(e).
[346] 44 CFR § 206.205(a).
[347] 2 CFR § 200.343.
[348] Stafford Act § 423, 42 U.S.C. § 5189a, and 44 CFR § 206.206.

Applicant may submit an appeal only for insurance or corrective actions resulting from reviews such as an audit.

FEMA provides the Applicant with two opportunities to request FEMA reconsider a determination. The first appeal is to the FEMA RA.[349] If the Applicant disagrees with the first appeal determination, it may submit a second appeal to the Assistant Administrator of the Recovery Directorate at FEMA Headquarters.[350]

The Applicant must submit a written appeal to the Recipient within 60 days of receiving written notification of FEMA's determination.[351] The Recipient must forward the appeal with its written recommendation to FEMA within 60 days of its receipt of the appeal.[352]

FEMA reviews the appeal and, within 90 days of receiving it, takes one of two actions:

- Provides its final written decision to the Recipient; or
- Requests additional information specifying the date FEMA must receive the information (usually 30 days).[353]

E. Audits

Recipients and Subrecipients are subject to Federal and non-Federal audits.[354] A Recipient or Subrecipient that expends $750,000 or more in Federal funds during its fiscal year must perform a single or program-specific audit.[355]

F. Stafford Act Section 705

Section 705 of the Stafford Act imposes a three (3) year limit on FEMA's authority to recover payments made to State, Tribal, or local government Recipients and Subrecipients unless there is evidence of fraud. Section 705 does not apply to PNPs. In order to ensure consistent application of the provisions contained in Section 705, FEMA issued Recovery Policy (FP 205-081-2), *Stafford Act Section 705, Disaster Grant Closeout Procedures*, which describes the limitations and requirements in detail.[356]

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V. Grant Management and Administration

This section provides information on grant management, administration, and the closeout process and requirements. FEMA's *Public Assistance Program Management and Grant Closeout Standard Operating Procedure* (SOP 9570.14) provides additional details.[357]

A. Quarterly Progress Reports

The Quarterly Progress Report is a tool for FEMA and the Recipient to track the progress of Large Projects. FEMA requires the Recipient to report on the status of all open Large Projects on

[349] 44 CFR § 206.206(b)(1).
[350] 44 CFR § 206.206(b)(2).
[351] 44 CFR § 206.206(c)(1).
[352] 44 CFR § 206.206(c)(2).
[353] 44 CFR § 206.206(c)(3).
[354] Stafford Act § 318, 42 U.S.C. § 5161, and 44 CFR § 206.207(c).
[355] 2 CFR § 200.501.
[356] www.fema.gov/media-library/assets/documents/115804.
[357] www.fema.gov/media-library/assets/documents/86377.

a quarterly basis.[358] Recipients need to submit Quarterly Progress Reports to FEMA no later than 30 days after the end of each quarter.

The Recipient must report the status of each open Large Project by providing the following:

- Amount of expenditures to date;
- Amount of funds the Recipient has drawn against the project to date;
- Projected project completion date;
- Time extensions granted; and
- Problems or circumstances that might delay the project.

The Subrecipient must submit the following for each uncompleted Large Project on a quarterly basis:

- Total expenditures to date for each project;
- Status of the project;
- Projected completion date; and
- Any circumstances that could delay the project.

B. Section 324 Management Costs

Section 324 management costs are indirect costs, administrative expenses, and other expenses a Recipient or Subrecipient incurs in administering and managing PA awards that are not directly chargeable to a specific project.[359] Chapter 2:V.N.1 discusses the eligibility and overall funding criteria for these costs. This section discusses the process. FEMA categorizes Recipient management costs as Category Z.

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Management Cost Cap

Management cost funding is capped at a percentage of the Federal share of assistance granted.[360]

The rate for Major Disaster Declarations is 3.34 percent.[361] The rate for Emergency Declarations is 3.90 percent.[362] This rate covers management costs of both the Recipient and Subrecipients. The Recipient determines the portion it distributes to Subrecipients.[363]

FEMA determines the capped amount in three phases:

- Initial cap: 30–35 days after declaration[364]
- Interim cap: 6 months after declaration[365]
- Final cap: 12 months after declaration[366]

The Recipient may request funds upon notification of the initial cap amount and upon notification of the final cap. If the Recipient can justify a need for an interim obligation at

[358] 44 CFR § 206.204(f).
[359] Stafford Act § 324(a), 42 U.S.C. § 5165b; 44 CFR § 207.2; and 2 CFR §§ 200.56 and 200.412.
[360] 44 CFR § 207.5(b).
[361] 44 CFR § 207.5(b)(4)(i).
[362] 44 CFR § 207.5(b)(4)(iii).
[363] 44 CFR § 207.4(c) and 206.207(b)(1)(iii)(K).
[364] 44 CFR § 207.5(b)(1).
[365] 44 CFR § 207.5(b)(2).
[366] 44 CFR § 207.5(b)(3).

6 months, the Recipient may submit a request with justification to FEMA. An interim obligation does not exceed 10 percent of the 6-month cap amount.[367]

The Recipient submits its initial management cost funding request to FEMA.[368] Upon receipt of the request, FEMA obligates 25 percent of the estimated capped amount.[369]

The Recipient must submit documentation no later than 120 days after the declaration date to support costs and activities for which the projected lock-in amount will be used. In extraordinary circumstances, the Recipient may request additional time.

Documentation must include the following information:

- A description of activities, personnel requirements, and other costs for which the Recipient will use the funding throughout the incident;
- A plan for expending and monitoring funds provided and ensuring sufficient funds are budgeted for grant closeout; and
- An estimate of the percentage or amount of pass-through funds the Recipient intends to make available to Subrecipients, including the basis, criteria, or formula for determining the percentage or pass-through amounts.

FEMA approves or rejects the documentation within 30 days of receiving it. If rejected, the Recipient has 30 days from the date of the rejection letter to resubmit for approval. FEMA does not obligate the balance of the lock-in amount until after it approves the Recipient's documentation.[370]

After notification of the final cap amount, the Recipient submits a final management costs request to FEMA with any necessary revisions to the 120-day documentation it submitted. FEMA only obligates the remaining funds if it received and approved the 120-day documentation.[371]

The Recipient must retain documentation on how it spent the funds for 3 years after the date of submission of its final FSR.[372]

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C. PA Award Closeout

To close the PA grant award to the Recipient, FEMA and the Recipient conduct a financial reconciliation. For FEMA to close the PA award, the following conditions should be met:

- FEMA has issued final determinations on all appeals;
- FEMA has obligated all eligible PA funding;
- The Recipient and Subrecipients have completed all PA Program projects and have met the statutory and regulatory requirements governing the program, including compliance with EHP requirements and insurance purchase requirements;
- The Recipient has passed through all obligated funds appropriately and submitted its final expenditure report to FEMA;

[367] 44 CFR § 207.7(e).
[368] 44 CFR § 207.7(c).
[369] 44 CFR § 207.5(b)(1).
[370] 44 CFR § 207.7(d).
[371] 44 CFR §§ 207.7(f) and 207.5(b)(3).
[372] 44 CFR § 207.8(f), and 2 CFR § 200.333.

- FEMA has adjusted the funding level for the program, as appropriate; and
- Both FEMA and the Recipient have completed all administrative actions related to the PA Program.

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ABBREVIATIONS AND ACRONYMS

ACSR	Aluminum Conductor Steel Reinforced
ADA	Americans with Disabilities Act
BCA	benefit-cost analysis
BFE	Base Flood Elevation
BIA	Bureau of Indian Affairs
CAA	Clean Air Act
CATEX	Categorical Exclusion
CBRA	Coastal Barrier Resources Act
CBRS	Coastal Barrier Resource System
CDC	Centers for Disease Control and Prevention
CERCLA	Comprehensive Environmental Response Compensation and Liability Act
CFR	Code of Federal Regulations
CWA	Clean Water Act
CZMA	Coastal Zone Management Act
DAC	Direct Administrative Costs
DFA	Direct Federal Assistance
DMP	Debris Management Plan
DUNS	Dun and Bradstreet
EA	environmental assessment
EHP	environmental and historic preservation
EIS	environmental impact statement
EMAC	Emergency Management Assistance Compact
EO	Executive Order
EOC	Emergency Operation Center
EPA	U.S. Environmental Protection Agency
ER	Emergency Relief (Program)
ERFO	Emergency Relief for Federally Owned Roads (Program)
ESA	Endangered Species Act
EWP	Emergency Watershed Protection Program
FCO	Federal Coordinating Officer
FHWA	Federal Highway Administration

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FIRM	Flood Insurance Rate Map
FMAG	Fire Management Assistance Grant
FP	FEMA Recovery Policy
FSR	Financial Status Report
HEPA	High-Efficiency Particulate Air
HHS	U.S. Department of Health and Human Services
HHW	household hazardous waste
HMA	Hazard Mitigation Assistance
HMGP	Hazard Mitigation Grant Program
HMP	Hazard Mitigation Proposal
HUD	U.S. Department of Housing and Urban Development
HVAC	heating, ventilation, and air conditioning
IA	Individual Assistance
IHP	Individuals and Households Program
JFO	Joint Field Office
NCEI	National Centers for Environmental Information
NEPA	National Environmental Policy Act
NFIP	National Flood Insurance Program
NHPA	National Historic Preservation Act
NMFS	National Marine Fisheries Service
NRCS	Natural Resources Conservation Service
NWS	National Weather Service
PA	Public Assistance
PDA	Preliminary Damage Assessment
PNP	private nonprofit
PW	Project Worksheet
RA	Regional Administrator
RCRA	Resource Conservation and Recovery Act
RIP	Rehabilitation and Inspection Program
ROW	right-of-way
RPA	Request for Public Assistance
RUS	Rural Utilities Service
SBA	U.S. Small Business Administration

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SFHA	Special Flood Hazard Area
SHPO	State Historic Preservation Officer
SOW	scope of work
STATEX	Statutory Exclusion
T&M	time and materials
THPO	Tribal Historic Preservation Officer
USACE	U.S. Army Corps of Engineers
U.S.C.	United States Code
USCG	U.S. Coast Guard
USDA	U.S. Department of Agriculture
USFWS	U.S. Fish and Wildlife Service
USNG	U.S. National Grid

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REFERENCES AND RESOURCES

Public Assistance (PA) Program References

www.fema.gov/public-assistance-local-state-tribal-and-non-profit
Archived Policy Documents: www.fema.gov/media-library/assets/documents/128488
Archived Publications: www.fema.gov/publications-archive
Alternative Procedures Pilot Program: www.fema.gov/alternative-procedures
Appeal Procedures Manual and Directive: www.fema.gov/media-library/assets/documents/93610
Debris Estimating Field Guide (FEMA 329):
www.fema.gov/pdf/government/grant/pa/fema_329_debris_estimating.pdf
Debris Contractor Registry Tool: https://asd.fema.gov/inter/drcr/home.htm
Direct Reimbursement for Host-State Evacuation and Sheltering Costs (FEMA SOP 9570.1):
www.fema.gov/media-library/assets/documents/28328
Dun and Bradstreet (DUNS) Number: www.dnb.com/get-a-duns-number.html
Elements of a Project Worksheet (FEMA Fact Sheet 9580.5):
www.fema.gov/pdf/government/grant/pa/9580_5.pdf
Equipment Rates: www.fema.gov/schedule-equipment-rates
Infectious Disease Event Fact Sheet (FP 104-009-001): www.fema.gov/media-library/assets/documents/99710
Mission Assignments for ESF #10 (FEMA 9523.8): www.fema.gov
Procurement Guidance for Recipients and Subrecipients Under 2 C.F.R. Part 200 (Uniform Rules): www.fema.gov/media-library/assets/documents/96773
PA Policy on Insurance (FP 206-086-1): www.fema.gov/media-library/assets/documents/107564
PA Field Operations Pocket Guide (FEMA P-1011): www.fema.gov/media-library/assets/documents/95650
PA Program Management and Grant Closeout (FEMA SOP 9570.14): www.fema.gov/media-library/assets/documents/86377
Project Specialist Transition at Joint Field Offices (FEMA SOP 9570.15):
www.fema.gov/media-library/assets/documents/28370
Recovery of Improper Payments (FEMA SOP 9570.16): www.fema.gov/media-library/assets/documents/92114
Recommended Post Earthquake Evaluation and Repair Criteria for Welded Steel Moment Frame Buildings (FEMA 352): www.fema.gov/media-library/assets/documents/747
Safe Rooms for Tornadoes and Hurricanes, Guidance for Community and Residential Safe Rooms (FEMA P-361): www.fema.gov/media-library/assets/documents/3140
Small Business Administration Loans: www.sba.gov/content/sba-loans
Strategic Funds Management – Implementation Procedures for the PA Program (FEMA SOP 9570.24): www.fema.gov/media-library/assets/documents/30301
Validation of Small Projects (FEMA SOP 9570.6): www.fema.gov/media-library/assets/documents/28349

Forms

Application for Federal Assistance (SF-424) and Assurances (SF 424-D):
www.grants.gov/web/grants/form-instructions/sf-424-instructions.html
www.grants.gov/web/grants/form-instructions/sf-424d-instructions.html

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Financial Status Report (FSR) (FEMA Form 112-0-1): www.fema.gov/media-library-data/20130726-1856-25045-9653/sf_financial_status_report.pdf
Payment Management System Access Form and a Direct Deposit Form (SF-1199A): www.dpm.psc.gov/grant_recipient/access_procedure/access_procedure.aspx?explore.event=true
PNP Facility Questionnaire (FEMA Form 90-121): www.fema.gov/media-library/assets/documents/10579?id=2726
Request for Public Assistance (RPA) (FEMA Form 90-49): www.fema.gov/media-library/assets/documents/10145
Subaward Application / Project Worksheets (PWs) (FEMA Form 90-91): www.fema.gov/media-library/assets/documents/9720

Statutes

The Robert T. Stafford Disaster Relief and Emergency Assistance Act, as Amended (Stafford Act), Title 42 of the United States Code (U.S.C.) § 5121 et seq.
www.fema.gov/robert-t-stafford-disaster-relief-and-emergency-assistance-act-public-law-93-288-amended
Federally Recognized Tribe List Act of 1994: http://uscode.house.gov/statutes/pl/103/454.pdf

Code of Federal Regulations

2 CFR, Grants and Agreements: www.ecfr.gov/cgi-bin/text-idx?SID=6bb67f6254dbbfb229adddfa247ca4eb&mc=true&tpl=/ecfrbrowse/Title02/2tab_02.tpl
2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards: www.ecfr.gov/cgi-bin/text-idx?SID=6bb67f6254dbbfb229adddfa247ca4eb&mc=true&node=pt2.1.200&rgn=div5
7 CFR § 1730.25, Corrective action (Rural Utilities Service [RUS] borrowers only): www.ecfr.gov/cgi-bin/text-idx?SID=6bb67f6254dbbfb229adddfa247ca4eb&mc=true&node=pt7.11.1730&rgn=div5#se7.11.1730_125
15 CFR Part 774, The Commerce Control List: www.ecfr.gov/cgi-bin/text-idx?SID=6bb67f6254dbbfb229adddfa247ca4eb&mc=true&node=pt15.2.774&rgn=div5
22 CFR Part 121, The United States Munitions List: www.ecfr.gov/cgi-bin/text-idx?SID=6bb67f6254dbbfb229adddfa247ca4eb&mc=true&node=pt22.1.121&rgn=div5
40 CFR Part 261, Identification and Listing of Hazardous Waste: www.ecfr.gov/cgi-bin/text-idx?SID=6bb67f6254dbbfb229adddfa247ca4eb&mc=true&node=pt40.26.261&rgn=div5
40 CFR Parts 1500–1508, NEPA Regulations: www.ecfr.gov/cgi-bin/text-idx?SID=6bb67f6254dbbfb229adddfa247ca4eb&mc=true&tpl=/ecfrbrowse/Title40/40cfrv33_02.tpl#1500
44 CFR, Emergency Management and Assistance: www.ecfr.gov/cgi-bin/text-idx?SID=e9db96b738b11340c696c4ee451d3865&mc=true&tpl=/ecfrbrowse/Title44/44tab_02.tpl
44 CFR Part 9, Floodplain Management and Protection of Wetlands: www.ecfr.gov/cgi-bin/text-idx?SID=e9db96b738b11340c696c4ee451d3865&mc=true&node=pt44.1.9&rgn=div5
44 CFR Part 201, Mitigation Planning: www.ecfr.gov/cgi-bin/text-idx?SID=e9db96b738b11340c696c4ee451d3865&mc=true&node=pt44.1.201&rgn=div5

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44 CFR Part 204, Fire Management Assistance Grant (FMAG) Program: www.ecfr.gov/cgi-bin/text-idx?SID=e9db96b738b11340c696c4ee451d3865&mc=true&node=pt44.1.204&rgn=div5
44 CFR Part 206, Federal Disaster Assistance: www.ecfr.gov/cgi-bin/text-idx?SID=e9db96b738b11340c696c4ee451d3865&mc=true&node=pt44.1.206&rgn=div5
48 CFR Subpart 2.1, Federal Acquisition Regulation: www.ecfr.gov/cgi-bin/text-idx?SID=6bb67f6254dbbfb229adddfa247ca4eb&mc=true&node=pt48.1.2&rgn=div5#sp48.1.2.2_11

Environmental Protection Laws and Executive Orders (EOs)

Clean Air Act (CAA): www.epa.gov/air/caa/
Clean Water Act (CWA): www.epa.gov/agriculture/lcwa.html
Coastal Barrier Resources Act (CBRA): www.fws.gov/ecological-services/habitat-conservation/cbra/Act/index.html
John H. Chafee Coastal Barrier Resources System (CBRS): www.fws.gov/ecological-services/habitat-conservation/coastal.html
Coastal Zone Management Act (CZMA): http://coast.noaa.gov/czm/act/
Comprehensive Environmental Response Compensation and Liability Act (CERCLA): www.epa.gov/superfund/policy/cercla.htm
Endangered Species Act (ESA): www.fws.gov/endangered/laws-policies/
Farmland Protection Policy Act (FPPA): www.nrcs.usda.gov/wps/portal/nrcs/detail/?cid=nrcs143_008275
Fish and Wildlife Coordination Act: www.fws.gov/laws/lawsdigest/fwcoord.html
Magnuson-Stevens Fishery Conservation and Management Act: www.nmfs.noaa.gov/sfa/magact/
Migratory Bird Treaty Act: www.fws.gov/laws/lawsdigest/migtrea.html
National Environmental Policy Act (NEPA): www.epa.gov/nepa
Resource Conservation and Recovery Act (RCRA): www.epa.gov/agriculture/lrca.html
Wild and Scenic Rivers Act: www.rivers.gov/wsr-act.php
EO 11988, Floodplain Management: www.fema.gov/executive-order-11988-floodplain-management
EO 11990, Protection of Wetlands: www.fema.gov/executive-order-11990-protection-wetlands-1977
EO 12898, Environmental Justice: www.fema.gov/executive-order-12898-environmental-justice-low-income-minority-populations-1994

Historic Preservation Laws and Tools

Advisory Council on Historic Preservation: www.achp.gov
American Institute for Conservation of Historic and Artistic Works Code of Ethics and Guidelines for Practice: www.conservation-us.org/about-us/core-documents/code-of-ethics-and-guidelines-for-practice
National Historic Preservation Act (NHPA): www.nps.gov/history/local-law/nhpa1966.htm
National Register of Historic Places: http://nps.gov/nr/

Other Laws and EOs

Americans with Disabilities Act (ADA): www.ada.gov

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EO 13717, Establishing a Federal Earthquake Risk Management Standard: www.gpo.gov/fdsys/pkg/FR-2016-02-05/pdf/2016-02475.pdf
EO 13688, Federal Support for Local Law Enforcement Equipment Acquisition: www.whitehouse.gov/sites/default/files/docs/le_equipment_wg_final_report_final.pdf

Federal Emergency Management Agency (FEMA) References

FEMA: www.fema.gov
FEMA Stafford Act Declaration Process Fact Sheet: www.fema.gov/declaration-process-fact-sheet
FMAG Program: www.fema.gov/fire-management-assistance-grant-program
    FMAG Program Guide (FEMA P-954): www.fema.gov/media-library/assets/documents/92379
Federal Insurance and Mitigation Administration (FIMA): www.fema.gov/what-mitigation/federal-insurance-mitigation-administration
    FIMA Policy (FP 306-112-1): www.fema.gov/media-library-data/52b14d2dfb254480e7cac82fa2acda58/FP_303_112_1_508.pdf
    National Flood Insurance Program (NFIP): www.fema.gov/national-flood-insurance-program
    Hazard Mitigation Assistance (HMA) Programs: www.fema.gov/hazard-mitigation-assistance
    HMA Guidance: www.fema.gov/media-library/assets/documents/103279
    Hazard Mitigation Grant Program (HMGP): www.fema.gov/hazard-mitigation-grant-program
    State Hazard Mitigation Officer: www.fema.gov/state-hazard-mitigation-officers
Individual Assistance (IA) Programs: www.fema.gov/individual-assistance-program-tools
    Individuals and Households Program (IHP): www.fema.gov/media-library/assets/documents/24945
National Disaster Recovery Framework (NDRF): www.fema.gov/national-disaster-recovery-framework
National Response Framework (NRF): www.fema.gov/national-response-framework

Other Federal Agencies

Bureau of Indian Affairs (BIA): www.indianaffairs.gov
Federal Highway Administration (FHWA): www.fhwa.dot.gov
    FHWA Emergency Relief Program (ERP): www.fhwa.dot.gov/programadmin/erelief.cfm
National Oceanic and Atmospheric Administration (NOAA): www.noaa.gov
    National Marine Fisheries Service (NMFS): www.nmfs.noaa.gov
    National Centers for Environmental Information (NCEI), formerly known as the National Climatic Data Center (NCDC): www.ncei.noaa.gov
    NWS Cooperative Network Stations: www.nws.noaa.gov/om/coop/
Natural Resources Conservation Service (NRCS): www.nrcs.usda.gov
    NRCS Emergency Watershed Protection Program (EWP): www.nrcs.usda.gov/wps/portal/nrcs/main/national/programs/landscape/ewpp
National Weather Service (NWS): www.weather.gov
U.S. Army Corps of Engineers (USACE): www.usace.army.mil

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USACE Rehabilitation and Inspection Program (RIP): www.usace.army.mil/Missions/CivilWorks/LeveeSafetyProgram/LeveeInspections.aspx

U.S. Coast Guard (USCG): www.uscg.mil

U.S. Department of Agriculture (USDA): www.usda.gov

Farm Service Agency: www.fsa.usda.gov

U.S. Department of Health and Human Services (HHS): www.hhs.gov

Centers for Disease Control and Prevention (CDC): www.cdc.gov

U.S. Department of Homeland Security (DHS): www.dhs.gov

DHS Office of Inspector General (OIG): www.oig.dhs.gov

OIG Emergency Management Oversight Team: www.oig.dhs.gov/index.php?option=com_content&view=article&id=38%3Aemo&catid=5&Itemid=17

U.S. Department of Housing and Urban Development (HUD): www.hud.gov

Community Development Block Grant Program: www.hud.gov/cdbg

U.S. Department of Labor: www.dol.gov

U.S. Environmental Protection Agency (EPA): www.epa.gov

U.S. Fish and Wildlife Service (USFWS): www.fws.gov

U.S. Government Accountability Office (GAO): www.gao.gov

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TERMS AND DEFINITIONS

Acquisition cost

The net invoice price of equipment including the cost of modifications, attachments, accessories, or auxiliary apparatus necessary to make it usable for the purpose it was acquired. Other charges such as the cost of installation, transportation, taxes, duty, or protective in-transit insurance, shall be included or excluded from the unit acquisition cost in accordance with the Recipient's regular accounting practices.

Animal

Any living or dead member of the animal kingdom, including any mammal, fish, bird, amphibian, reptile, mollusk, crustacean, arthropod, or other invertebrate or any part thereof.

Applicant

A non-Federal entity submitting an application for assistance under the Recipient's Federal award.

Assistance Animal

An animal that works, provides assistance, or performs tasks for the benefit of a person with a disability, or provide emotional support that alleviates identified symptoms or effects of a person's disability. Although dogs are the most common type of assistance animal, other animals can also be assistance animals.

Award (Federal)

The financial assistance that a non-Federal entity receives either directly from a Federal awarding agency or indirectly from a pass-through entity; or the cost-reimbursement contract under the Federal Acquisition Regulation that a non-Federal entity receives directly from a Federal awarding agency or indirectly from a pass-through entity.

Backfill Employee

A replacement employee who performs the regular duties of other personnel.

Coastal zone

The coastal waters (including the lands therein and thereunder) and the adjacent shorelands (including the waters therein and thereunder), strongly influenced by each other and in proximity to the shorelines of coastal States, including islands, transitional and intertidal areas, salt marshes, wetlands, and beaches.

Cost-to-charge ratio

A ratio established by Medicare to estimate a medical service provider's actual costs in relation to its charges.

Critical action

An action for which even a slight chance of flooding is too great. The minimum floodplain of concern for critical actions is the 500-year floodplain (also referred to as the critical action floodplain).

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Current fair market value

The value of equipment and supplies determined by selling them in a competitive market or by researching advertised prices for similar items on the used market.

Direct Administrative Cost (DAC)

A cost incurred that can be identified separately and assigned to a specific project.

Duplication of Benefits

Funding received from two sources for the same item of work.

Educational institution

Any elementary school as defined by section 801(c) of the Elementary and Secondary Education Act of 1965; any secondary school as defined by section 801(h) of the Elementary and Secondary Education Act of 1965; or any institution of higher education as defined by section 1201 of the Higher Education Act of 1965.

Emergency

Any occasion or instance for which the President determines Federal assistance is needed to supplement State, Territorial, Tribal, and local efforts and capabilities to save lives and to protect property and public health and safety, or to lessen or avert the threat of a catastrophe in any part of the United States.

Emergency Protective Measure

An action taken by a community before, during, and after a disaster to save lives, protect public health and safety, and prevent damage to improved public and private property.

Emergency Work

Work that must be done immediately to save lives, protect improved property, protect public health and safety, or avert or lessen the threat of a major disaster.

Equipment

Tangible personal property, including information technology systems, having a useful life of more than 1 year and a per-unit acquisition cost that equals or exceeds the lesser of the capitalization level established by the non-Federal entity for financial statement purposes, or $5,000.

Facility

Any publicly or privately owned building, works, system or equipment—built or manufactured—or an improved and maintained natural feature. Land used for agricultural purposes is not a facility.

Federal agency

Any department, independent establishment, government corporation, or other agency of the executive branch of the Federal government, including the United States Postal Service, but not including the American National Red Cross.

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Federal share

The portion of the total project costs that are paid by Federal funds.

Final expenditure report

The report the Recipient submits to FEMA for all of a Subrecipient's projects, certifying that the grant terms and conditions have been met and project costs are reconciled.

Flood control work

A structure such as a levee, flood wall, flood control channel, or water control structure that was designed and constructed to have appreciable effects in preventing damage by irregular and unusual rises in water level.

Flood fighting

An activity or measure (e.g., sandbagging, buttressing) intended to prevent or stop flooding, at levels above flood stage, or to prevent structural failure.

Force account

An Applicant's own labor forces and equipment.

Fringe benefits

A percentage of the actual wages that pays for employee benefits.

Immediate threat

The threat of additional damage or destruction from an event that can reasonably be expected to occur within 5 years.

Improved property

A structure, facility, or item of equipment that was built, constructed, or manufactured. Land used for agricultural purposes is not improved property.

Incident period

The time span during which the disaster-causing incident occurs.

Indian Tribal Government

Any federally recognized governing body of an Indian or Alaska Native Tribe, band, nation, pueblo, village, or community that the Secretary of the Interior acknowledges to exist as an Indian Tribe under the Federally Recognized Tribe List Act of 1994, Title 25 of the U.S. Code (U.S.C.) 479a. This does not include Alaska Native corporations, the ownership of which is vested in private individuals.

Indirect cost

A cost incurred for a common or joint purpose benefiting more than one cost objective that is not readily assignable to the cost objectives specifically benefited.

Inland zone

The environment inland of the coastal zone excluding the Great Lakes and specified ports and harbors on inland rivers. Precise boundaries are identified in Federal regional contingency plans.

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Large Project

A project for which the final obligated (Federal and non-Federal) amount is equal to or *greater* than the annually adjusted cost threshold for small project grants.

Local government

A county, municipality, city, town, township, local public authority, school district, special district, intrastate district, council of governments(regardless of whether the council of governments is incorporated as a nonprofit corporation under State law), regional or interstate government entity, or agency or instrumentality of a local government; an Indian Tribe or authorized tribal organization, or Alaska Native village or organization that does not meet the definition of Indian Tribal Government; or a rural community, unincorporated town or village, or other public entity, for which an application for assistance is made by a State or political subdivision of a State.

Major disaster

Any natural catastrophe (including any hurricane, tornado, storm, high water, winddriven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, or drought), or, regardless of cause, any fire, flood, or explosion, in any part of the United States, for which the President determines causes damage of sufficient severity and magnitude to warrant major disaster assistance under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as Amended to supplement the efforts and available resources of States, local governments, and disaster relief organizations in alleviating the damage, loss, hardship, or suffering caused thereby.

Management cost

Any indirect cost, administrative expense, and any other expense that a Recipient or Subrecipient reasonably incurs in administering and managing the Public Assistance (PA) award that is not directly chargeable to a specific project.

Museum

A facility that preserves and exhibits a documented collection of artistic, historic, scientific, or other objects.

Non-Federal entity

An institution of higher education, nonprofit organization, local government, Indian Tribe, or State that carries out a Federal award as a Recipient or Subrecipient.

Pass-through entity

A non-Federal entity that provides a subaward to a Subrecipient to carry out part of a Federal program.

Period of performance

The time during which the non-Federal entity may incur new obligations to carry out the work authorized under the Federal award.

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Permanent Work

Restorative work that must be performed through repairs or replacement to restore an eligible facility on the basis of its pre-disaster design and current applicable codes and standards.

Personal property

Property other than real property. It may be tangible, having physical existence, or intangible.

Pet (household)

A Domesticated animal that is traditionally kept in the home for pleasure rather than for commercial purposes, can travel in a commercial carrier, and can be housed in a temporary facility. Examples are dogs, cats, birds, rabbits, rodents, and turtles. Household pets do not include reptiles (except turtles), amphibians, fish, insects, arachnids, farm animals (including horses), or animals kept for racing purposes.

Private nonprofit (PNP) custodial care facility

A building, structure, or system, including those for essential administration and support, that is used to provide institutional care for persons who require close supervision and some physical constraints on their daily activities for their self-protection, but do not require day-to-day medical care.

PNP educational facility

Classrooms plus related supplies, equipment, machinery, and utilities of an educational institution necessary or appropriate for instructional, administrative, and support purposes.

PNP emergency facility

A building, structure, equipment, or system used to provide emergency services, such as fire protection, ambulance, or rescue, to the general public, including the administrative and support facilities essential to the operation of such emergency facilities, even if not contiguous.

PNP medical facility

A hospital, outpatient facility, rehabilitation facility, or facility for long-term care as such terms are defined in Section 645 of the Public Health Service Act (42 U.S.C. 2910) and any similar facility offering diagnosis or treatment of mental or physical injury or disease, including the administrative and support facilities essential to the operation of such medical facilities even if not contiguous.

Pre-disaster design

The size or capacity of a facility as originally designed and constructed or subsequently modified by changes or additions to the original design. It does not mean the capacity at which the facility was being used at the time the major disaster occurred if different from the most recent designed capacity.

Pre-disaster function

The function the facility was performing immediately prior to the disaster.

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Private nonprofit (PNP) organization

Any nongovernmental agency or entity that currently has an effective ruling letter from the U.S. Internal Revenue Service, granting tax exemption under Sections 501(c), (d), or (e) of the Internal Revenue Code of 1954, or satisfactory evidence from the State that the nonrevenue producing organization or entity is a nonprofit one organized or doing business under State law.

Project

A logical grouping of work required as a result of the declared major disaster or emergency.

Project Worksheet (PW)

A tool used by the Applicant and FEMA to develop projects. The PW (FEMA Form 90-91) is the primary form used to document the location, damage description and dimensions, scope of work, and cost estimate for each project.

Providing Entity

The entity providing mutual aid assistance to a requesting entity pursuant to a local or statewide mutual aid agreement.

Public entity

An organization formed for a public purpose whose direction and funding are provided by one or more political subdivisions of the State.

Public facility

Any of the following facilities owned by a State, Territorial, Tribal, or local government: any flood control, navigation, irrigation, reclamation, public power, sewage treatment and collection, water supply and distribution, watershed development, or airport facility; any non-Federal aid, street, road, or highway; and any other public building, structure, or system, including those used for educational, recreational, or cultural purposes; or any park.

Real property

Land, including land improvements, structures, and appurtenances thereto, but excludes moveable machinery and equipment.

Recipient

A non-Federal entity that receives a Federal award directly from a Federal awarding agency to carry out an activity under a Federal program.

Reasonable cost

A cost is reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost. In other words, a reasonable cost is a cost that is both fair and equitable for the type of work being performed.

Rehabilitation facility

A facility that primarily provides diagnosis and treatment for rehabilitation of injuries, disabilities, or illness. (Consistent with the definition of “comprehensive outpatient rehabilitation facility” in 42 U.S.C. §1395x(cc)(2)).

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Request for Public Assistance (RPA)

The form a public entity or PNP organization uses to apply for disaster assistance.

Requesting Entity

An entity that requests mutual aid assistance from a Providing Entity for work resulting from a declared fire, emergency, or major disaster within its legal jurisdiction.

Service animal

A dog that is individually trained to do work or perform tasks for people with disabilities or access and functional needs.

Simplified acquisition threshold

The dollar amount below which a non-Federal entity may purchase property or services using small purchase methods. The simplified acquisition threshold is set by the Federal Acquisition Regulation at 48 CFR Subpart 2.1 (Definitions) and in accordance with 41 U.S.C. 1908. As of the publication of this part, the simplified acquisition threshold is $150,000, but this threshold is periodically adjusted for inflation.

Small Project

A project for which the final obligated (Federal and non-Federal) amount is less than the annually adjusted cost threshold for small project grants.

Special Flood Hazard Area (SFHA)

The land area subject to inundation during a flood having a 1 percent chance of being equaled or exceeded in a given year (also referred to as the base flood or 100-year flood). SFHAs are shown on FIRMs published by FEMA.

State

Any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, U.S. Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

Subaward

An award provided by a pass-through entity to a Subrecipient for the Subrecipient to carry out part of a Federal award received by the pass-through entity. It does not include payments to a contractor or payments to an individual that is a beneficiary of a Federal program.

Subrecipient

A non-Federal entity that receives a subaward from a pass-through entity to carry out part of a Federal program. It does not include an individual that is a beneficiary of such program. A Subrecipient may also be a Recipient of other Federal awards directly from a Federal awarding agency.

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Substantial Damage

Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Supply

Any tangible personal property other than that meeting the definition of equipment.

Trust land

Land, the title to which is held by the United States in trust for an Indian Tribe or individual, or which is held by an Indian Tribe or individual subject to a restriction by the United States against alienation. “Trust or restricted interest in land” or “trust or restricted interest in a parcel of land” means an interest in trust land. Collectively referred to as “trust lands.”

Wetland

An area that is saturated by water with a frequency sufficient to support or, under normal hydrologic conditions would support, a prevalence of vegetation or aquatic life typically adapted to saturated or seasonally saturated soil conditions (e.g., swamp, fresh and saltwater marsh, bog, fen).

Zoo

Any facility, maintained under the care of a Doctor of Veterinary Medicine, in which live animal(s) are kept for public exhibition or education. Aquariums and wildlife or zoological parks may meet this definition.

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APPENDIX A: ENVIRONMENTAL AND HISTORIC PRESERVATION COMPLIANCE

The following statutes, Executive Orders (EOs), and regulations establish requirements to protect the environment and preserve the Nation's historic and prehistoric resources. FEMA must review each Public Assistance (PA) project to ensure the work complies with applicable Federal environmental and historic preservation (EHP) laws, their implementing regulations, and applicable EOs.

National Historic Preservation Act

Section 106 of the National Historic Preservation Act (NHPA) requires FEMA to consider the effects a project will have on historic properties and provide the Advisory Council on Historic Preservation the opportunity to comment on the effects of the project.[373] Historic properties include buildings or groups of buildings (districts), structures, objects, landscapes, archaeological sites, and traditional cultural properties included in, or eligible for inclusion in, the National Register of Historic Places.[374]

National Environmental Policy Act

Section 102 of the National Environmental Policy Act (NEPA) requires Federal agencies to integrate environmental values into their decision-making processes by considering the environmental impacts of their proposed actions and reasonable alternatives to those actions.[375] The White House Council on Environmental Quality publishes its NEPA regulations in Title 40 of the Code of Federal Regulations (CFR) Parts 1500–1508. The U.S. Department of Homeland Security publishes NEPA requirements and provides a specific decision-making process that FEMA must follow before funding a project. The process ensures consideration of environmental consequences of the project and informs the general public.

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Endangered Species Act

Section 7 of the Endangered Species Act (ESA) requires Federal agencies to use their authorities to conserve federally listed threatened and endangered species (listed species) and critical habitats. FEMA must consult with the U.S. Fish and Wildlife Service (USFWS) and the National Oceanic and Atmospheric Administration Fisheries, also known as the National Marine Fisheries Service (NMFS), to ensure that proposed projects will not jeopardize the continued existence of any listed species or result in the destruction or adverse modification of critical habitat for listed species.[376]

Clean Water Act

The Clean Water Act (CWA) establishes the basic structure for regulating discharges of pollutants in the waters of the United States (e.g., rivers and streams, lakes and ponds, coastlines, wetlands, estuaries). The CWA makes it unlawful to discharge any pollutant from a specific

[373] 16 U.S.C. § 470f.
[374] http://nps.gov/nr/.
[375] 42 U.S.C. § 4332.
[376] 16 U.S.C. § 1531, Section 7.

source into navigable waters without the appropriate CWA permits from the U.S. Army Corps of Engineers (USACE) or State regulatory agency.[377]

Clean Air Act

The Clean Air Act (CAA) protects the Nation's air through the reduction of smog and atmospheric pollution. Except for activities in non-attainment areas (defined as those areas that do not meet national standards for air quality and, therefore, require more rigorous compliance measures), air quality compliance often requires certain measures be implemented, such as dust abatement, vehicle emissions control, fuel storage, and distribution procedures.[378]

Coastal Barrier Resources Act

The Coastal Barrier Resources Act (CBRA)[379] established the John H. Chafee Coastal Barrier Resources System (CBRS), which consists of relatively undeveloped coastal barriers along the Atlantic, Gulf, and Great Lakes coasts. CBRA minimizes adverse impacts to these areas by restricting Federal assistance that encourages development within the CBRS. USFWS publishes maps designating these areas.[380] FEMA must consult with USFWS prior to providing PA funding for work within the CBRS.[381]

Migratory Bird Treaty Act

The Migratory Bird Treaty Act makes it unlawful to pursue, hunt, take, capture, kill, or sell migratory birds listed in the statute without a waiver from USFWS.[382] FEMA consults with USFWS regarding projects likely to trigger compliance with this Act.

Resource Conservation and Recovery Act

The Resource Conservation and Recovery Act (RCRA) established a framework for Federal, State, Territorial, and local cooperation for controlling the management of hazardous and non-hazardous solid waste. The U.S. Environmental Protection Agency's (EPA's) role is to establish minimum regulatory standards, usually implemented by the States, and to provide technical assistance. RCRA requires the safe disposal of waste materials, promotes the recycling of waste materials, and encourages cooperation with local agencies.[383]

Coastal Zone Management Act

The Coastal Zone Management Act (CZMA) provides for the management of the Nation's coastal resources. The CZMA establishes a voluntary partnership between the Federal Government and coastal and great lakes States and Territories. It requires participating States to develop State coastal zone management plans. PA projects located in, or near, established coastal zone management areas must be consistent with the enforceable policies of the State's federally

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[377] 33 U.S.C. § 1251 et seq.
[378] 42 U.S.C. § 7401 et seq.
[379] 16 U.S.C. § 3501 et seq.
[380] 16 U.S.C. §§ 3501 and 3503. USFWS publishes CBRS maps at: www.fws.gov/ecological-services/habitat-conservation/cbra/Maps/index.html.
[381] 16 U.S.C. § 3505.
[382] 16 U.S.C. §§ 703–712.
[383] 42 U.S.C. § 6901 et seq.

approved coastal zone management plan.[384] Before approving a project in a coastal zone management area, FEMA consults with the State agency overseeing the implementation of the CZMA plan to ensure the project is consistent with the plan's provisions.

Farmland Protection Policy Act

The Farmland Protection Policy Act minimizes the extent to which Federal programs contribute to the conversion of prime or unique farmland, or land of statewide or local importance, to non-agricultural uses and to ensure that Federal programs are administered in a manner that, to the extent practicable, will be compatible with State, Territorial, local, and private programs and policies to protect farmland. The Farmland Protection Policy Act and U.S. Department of Agriculture (USDA) implementing procedures require FEMA to evaluate projects for adverse effects to such farmland and to consider alternative actions that could avoid adverse effects. For projects that have the potential to affect such farmland, FEMA must consult with the USDA Natural Resources Conservation Service (NRCS) to identify potential impacts to that farmland.[385]

Fish and Wildlife Coordination Act

The Fish and Wildlife Coordination Act protects fish and wildlife when Federal actions result in the control or modification of a natural stream or body of water. The Fish and Wildlife Coordination Act requires Federal agencies to determine whether a proposed action will result in the control or modification of a body of water. Projects involving the control or modification of any water body require Federal agencies to consult with USFWS and NMFS (as appropriate) and State wildlife agencies to develop measures to protect, develop, and improve fish and wildlife conditions.[386]

Wild and Scenic Rivers Act

The Wild and Scenic Rivers Act preserves the free-flowing State of rivers that are listed in the National Wild and Scenic Rivers System (System) or are under study for inclusion in the System because of their scenic, recreational, geologic, fish and wildlife, historic, cultural, or other similar values. If a proposed project is located on a river included in the System, FEMA must review it for compliance with the Wild and Scenic Rivers Act and consult with the managing agency for the affected designated river.[387]

Magnuson-Stevens Fishery Conservation and Management Act

The Magnuson-Stevens Fishery Conservation and Management Act is the primary law for managing and maintaining sustainable fisheries in waters of the United States. The Magnuson-Stevens Fishery Conservation and Management Act protects essential fish habitat, which includes the waters and substrate necessary to maintain healthy fisheries. FEMA must consult with NMFS when any proposed PA project could have an adverse effect on essential fish habitat.[388]

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[384] 16 U.S.C. § 1451 et seq.
[385] 7 U.S.C. § 4201 et seq.
[386] 16 U.S.C. §§ 661–667e.
[387] 16 U.S.C. § 1271 et seq.
[388] 16 U.S.C. §§ 1801–1884.

Executive Order 11988, Floodplain Management

EO 11988, Floodplain Management, requires Federal agencies to minimize or avoid activity that adversely affects floodplains. It requires Federal agencies to use a systematic decision-making process to evaluate the potential effects of projects located in, or affecting, floodplains; document each step of the process; and involve the public in the decision-making process. This process is designed to:

- Reduce flood loss risks;
- Minimize the impacts of floods on human safety, health, and welfare; and
- Restore and preserve the natural and beneficial functions of floodplains.

FEMA publishes its implementing regulations for EO 11988 in 44 CFR Part 9, Floodplain Management and Protection of the Wetlands. These regulations set forth the policy, procedures, and responsibilities to implement and enforce the EO, including the decision-making process, which is referred to as the 8-step process.[389]

Executive Order 11990, Protection of Wetlands

EO 11990, Protection of Wetlands, requires Federal agencies to minimize or avoid activity that adversely affects wetlands and to encourage the preservation and enhancement of the beneficial functions of wetlands. To meet these objectives, EO 11990 requires Federal agencies to use a systematic decision-making process to evaluate the potential effects of projects in, or affecting, wetlands; document each step of the process; and involve the public in the decision-making process.

FEMA publishes its implementing regulations for EO 11990, Protection of Wetlands in 44 CFR Part 9, Floodplain Management and Protection of the Wetlands. These regulations set forth the policy, procedures, and responsibilities to implement and enforce the EO, including the decision-making process, which is referred to as the 8-step process.

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Executive Order 12898, Environmental Justice

EO 12898, Environmental Justice, requires Federal agencies to identify and address any disproportionately high and adverse human health or environmental effects on minority and low-income populations as a result of their actions.

[389] 44 CFR § 9.6, Decision-making process.

APPENDIX B: PRIVATE NONPROFIT FACILITY ELIGIBILITY EXAMPLES

Below are examples of private nonprofit (PNP) facility eligibility determinations.

Facility owned by PNP – PNP Leases Portion of Space to For-Profit Service

Parkland Hospital is an eligible PNP that owns a medical office building and leases a portion of it to doctors and laboratories that are providing for-profit services. The for-profit leases are for 70 percent of the floor space, excluding the common area floor space, as defined in this policy.

Analysis:

The building is not eligible because the eligible services were offered in less than 50 percent of the building space.

PNP Recreational Center Providing Eligible Services

The PNP Springtown Recreation Center claims that it provides eligible essential social services in addition to its recreation activities and should be eligible for assistance. The organization claims that its services now include day care for elderly adults, senior citizen center programs, programs for battered spouses, and shelter workshops. These programs are provided by the recreation center staff and offered 5 days a week. Recreation activities are limited to evenings and weekends. The entire center is used for the eligible services.

Analysis

The organization would not appear to be eligible based upon its name and presumed mission. A detailed examination is necessary to determine the eligibility of the organization and its facility based upon the eligible services provided. In cases where space is not dedicated to any specific activity, the amount of time dedicated to eligible purposes in such spaces will determine eligibility and the level of assistance. Therefore, even though the entire facility is used for eligible purposes, FEMA will pro-rate PA funding based on the proportion of the total time it is used for eligible services.

Support Facility Owned by PNP

A parking garage is owned by an eligible PNP hospital to support its nearby hospital facility. The ground floor is leased to retail businesses and totals 15 percent of the total space of the garage.

Analysis

Title 44 of the Code of Federal Regulations (CFR) § 206.221(e), Private nonprofit facility, authorizes assistance for administrative and support facilities essential to the operation of medical facilities and emergency facilities, which in this example includes the parking garage. Because the hospital uses more than 50 percent of the parking garage, the facility is eligible based on primary use. FEMA assistance would be pro-rated based on the percentage of space used for the eligible parking purpose. The parking garage is eligible only because of its association with the hospital.

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Facilities Owned by PNP Homeowners' Association

The Woodlands Homeowners' Association is a PNP organization responsible for providing certain services for a 200-home development. The Homeowners' Association's facilities are local neighborhood streets, water system, sewage system, fire station, medical clinic, neighborhood park, community center, and a recreational lake and dam.

Analysis

The Homeowners' Association operates facilities that provide essential social services and therefore is an eligible PNP. The lake and dam, park, and streets do not meet the definition of eligible facilities. The water and sewage systems meet the definition of a utility and are eligible for assistance. The fire station and medical clinic are eligible as emergency and medical facilities. The community center might be eligible if it is open to the general public outside the Homeowners' Association community and if it is established and primarily used as a gathering place for a variety of social, educational enrichment, and community service activities.

Recreational Center – Primarily Athletic Services

Westover Recreation Center sponsors a number of activities.

The center is available for rental Friday, Saturday, and Sunday evening to companies, religious groups, clubs, and civic organizations. It is offered as a location for league parties, office parties, seminars, conferences, and holiday celebrations. The center has rooms set aside for seniors' bridge and other card games, along with occasional workshops for photography, pottery and ceramics, and art.

However, the center is primarily oriented to athletics, as exemplified by a large indoor pool and locker room, a half dozen squash/racquetball courts, a weight/exercise room, and a 9,200-square-foot gymnasium/basketball court.

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Analysis

Although Westover Recreation Center offers a number of activities generally considered eligible community center functions, it is, first and foremost, a recreation center. In contrast to the definition of an eligible community center, it is neither established nor primarily used as a "gathering place for a variety of social, educational enrichment, and community service activities," even though it does offer some of these.

"Facilities established or primarily used for athletic (or) recreational activities are not eligible community centers." It is not necessary to calculate the percentage of time or space devoted to community activities versus athletic and recreational activities, because Westover is overwhelmingly athletic and recreational. For these reasons, a PNP facility similar to Westover would not be eligible.

Mixed Use Community Center – Nominal Fee

Somerset Community Center consists of a number of meeting rooms, a lending library, social services room, health services room, dining room, activity area with games and a wide-screen TV, darkroom, pianos for practice, ceramics lab, woodshop, computer room, sewing machines, exercise room, and a large foyer. Outside are a fitness trail, garden plots, an outdoor basketball court and softball field, a gazebo, and picnic area.

A nominal membership fee is charged. Classes are offered in piano, bridge, arts and crafts, and cooking. The center sponsors numerous seniors' activities, which include trips, luncheons, and recreational and educational activities. A lunch program is offered for seniors and their spouses. Some exercise classes are also offered. Health screenings and immunizations are regularly offered. Door-to-door transportation is provided to those who need it.

Analysis

By virtue of the wide range of community activities, Somerset Community Center would be an eligible community center. Although it does offer athletic and recreational activities, these are minimal in the time and space allocated to them; therefore, it is not a recreational center. The minimal fee makes it open to the public.

School Operated by a Religious Institution

The Community Church operates a State-certified private school offering first through eighth grades. The teaching curriculum includes math, science, English, history, physical education, and religious doctrine. The school has an average attendance of 500 students. The campus consists of three buildings: one used primarily for the secular curriculum, one used primarily for religious instruction, and a chapel primarily used for religious worship. Admissions to the school are restricted to members of Community Church.

Analysis

Evaluate the three buildings separately. The two buildings used, respectively, for secular and religious education are each eligible as educational facilities. As educational facilities, they are considered to provide critical services and therefore Community Church will not have to apply to SBA prior to receiving funding for permanent work on those buildings. The chapel is eligible as a house of worship. Houses of worship are considered to provide non-critical services, so Community Church will be required to apply for an SBA loan for the chapel. The restricted admissions process does not affect eligibility. Pursuant to the Stafford Act, no PNP facility may be excluded from eligibility because leadership or membership in the organization is limited to people that share a religious faith or practice.

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APPENDIX C: WELDED STEEL MOMENT FRAME

FEMA has specific eligibility criteria for inspecting, evaluating, and repairing earthquake damage to buildings constructed with welded steel moment framing connections subject to brittle fracture, such as those constructed prior to 1995 using the prescribed detail of the 1991 Uniform Building Code (Section 2710(g)(B) or its equivalent). FEMA bases the eligibility criteria on *Recommended Post Earthquake Evaluation and Repair Criteria for Welded Steel Moment Frame Buildings* (FEMA 352).[390]

Reimbursement for Preliminary Post-earthquake Assessment

The process of preliminary screening, which helps to rapidly identify buildings that are likely to have sustained significant damage to welded steel moment frame connections, is not eligible for Public Assistance (PA) funding. Preliminary screening is typically performed by building department officials immediately following an earthquake to determine if a building needs further evaluation.

Following the preliminary screening, the Applicant may use the preliminary evaluation method described in FEMA 352 to determine, on a preliminary basis, whether a building has sustained either structural or nonstructural damage that results in a hazardous condition. Preliminary evaluations include:

- A general review of the building's construction characteristics to determine its structural system and vulnerable features.
- A visit to the building site to observe its overall condition and note obvious signs of damage.
- A determination of an appropriate posting category for the building, on the basis of the preceding results and engineering judgment. Posting categories are described by the following designations:
    - Green – Little or no damage. Poses no immediate threat.
    - Yellow – Structural or nonstructural damage. Limited or localized safety hazard.
    - Red – Significant damage to structural elements. Significant safety hazard.

Preliminary evaluation is eligible only when conditions result in a yellow or red designation.

Reimbursement for Detailed Post-earthquake Evaluations

As recommended in FEMA 352, the Applicant should conduct a detailed evaluation on all buildings determined to have potential welded steel moment frame fractures, as identified in the preliminary assessment, and designated with a yellow or red posting. Eligible work includes the reasonable evaluation of the effects of the identified, significant connection damage to the future performance of the building structure. To be eligible, this evaluation should be limited to the recommendations in FEMA 352, Chapter 4, as follows:

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[390] www.fema.gov/media-library/assets/documents/747.

- Visual bottom flange connection inspections performed at locations selected in accordance with FEMA 352, Chapter 4, Method 2 (Inspection of a Sample of Connections) are eligible.
- The inspection of a sample of the total welded steel moment frame connections in the building, in accordance with guidance provided in FEMA 352, Chapter 4, Method 2 is eligible.
- If an Applicant discovers certain types of damage, additional visual inspection of bottom or top flange connections at locations recommended in FEMA 352, Chapter 4, are also eligible but only after the Applicant informs FEMA of the frame damage already discovered and FEMA approves the follow-on inspection.

The eligible work associated with connection inspection includes:

- Removal of necessary architectural finishes, such as plaster/drywall.
- Removal of fire retardants in the inspection area of the connection.
- Visual inspection.
- Nondestructive testing as appropriate, necessary, and approved by FEMA. Testing may include liquid dye-penetrant testing or magnetic particle testing, but not ultrasonic testing.

In circumstances where a building is assigned a green posting, visual inspections are only eligible for those connections where the Applicant has found significant damage (as defined in FEMA 352, Chapter 4) associated with the declared earthquake disaster.

Visual inspection of additional connections (at locations recommended by FEMA 352, following the discovery of damaged connections) will also be eligible, but only after the Applicant has informed FEMA of the frame damage already discovered and FEMA approves the follow-on inspection. FEMA may also approve nondestructive testing if the visual inspections indicate a significant potential for concealed damage.

Except as detailed above, any inspections that do not yield discovery of significant connection damage attributable to the earthquake are not eligible.

Generally, detailed analytical or experimental studies or Level 2 evaluations as described in FEMA 352, Chapter 5, are not eligible unless FEMA provides approval before the Applicant initiates the work.

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APPENDIX D: DEBRIS MANAGEMENT PLAN JOB AID

FEMA encourages State, Territorial, Tribal, and local governments to establish written procedures and guidance for managing debris in an expeditious, efficient and environmentally sound manner. FEMA refers to this as a Debris Management Plan (DMP).

The content of a DMP will vary depending on State, Territorial, Tribal, and local vulnerabilities, ordinances, zoning, critical infrastructure locations, disposal locations, and other localized factors. The following 10 elements are the basic components of a comprehensive DMP:

Overview

This section should include the following information:

- The purpose of the DMP and its overarching goals,
- How the DMP was developed and who participated in development (include all internal departments and external entities that may be involved with debris operations), and
- Whether the DMP is officially adopted by the governing body.

Incidents and Assumptions

Forecasting the type and quantity of debris is essential to the debris removal operations planning process. The DMP should include:

- Identification of the types and severity of incidents most likely to occur along with the types and anticipated quantities of debris that may be generated,
- Identification of the type of handling and equipment necessary to safely manage the debris, and
- A description of the general terrain types, land use, and accessibility for the areas that would most likely be impacted by the incident and how these characteristics may affect debris operations.

There are many types of debris with various considerations for each, as shown in the table below.

Vegetative Debris	Vegetative debris includes whole trees, stumps, trunks, branches, limbs, and other leafy material.
Construction and Demolition Debris	Construction and demolition debris includes components of buildings and structures, such as lumber and wood, gypsum wallboard, glass, metal, roofing material, tile, carpeting and other floor coverings, window coverings, pipe, concrete, asphalt, equipment, furnishings, and fixtures. The definition of construction and demolition debris may vary between jurisdictions.

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Hazardous Waste	Hazardous waste is a waste that appears on one of the four hazardous waste lists in Title 40 of the Code of Federal Regulations (CFR) Part 261 or exhibits at least one of the following four characteristics: • Ignitability • Corrosivity • Reactivity • Toxicity Hazardous waste is regulated under the Resource Conservation and Recovery Act (RCRA) and contains properties that make it potentially harmful to human health or the environment. The State or Tribal environmental office and the U.S. Environmental Protection Agency (EPA) provide first response functions in cases of commercial, agricultural, industrial, and toxic waste spills. The DMP should include the contact information for both parties in case of a large contamination issue.
Household Hazardous Waste	Household Hazardous Waste (HHW) is a hazardous product or material used and disposed of by residential consumers, rather than commercial or industrial consumers. HHW includes some paints, stains, varnishes, solvents, pesticides, and other products or materials containing volatile chemicals that catch fire, react, or explode under certain circumstances, or that are corrosive or toxic. HHW mixed with other debris types will contaminate the entire load, which necessitates special disposal methods. The overall cost of debris disposal can escalate quickly if HHW collection and disposal is not planned and executed with care. Pre-disaster planning should include training for hazardous waste response teams to collect, sort, store, and dispose of excessive quantities of HHW. The planning staff should consider having emergency hazardous waste removal contracts in place with pre-qualified contractors to perform the work. After an incident, the Applicants should set-up HHW collection centers to avoid commingling of HHW with other debris.
White Goods	White goods are defined as discarded household appliances such as refrigerators, freezers, air conditioners, heat pumps, ovens, ranges, washing machines, dryers, and water heaters. Many white goods contain ozone-depleting refrigerants, mercury, or compressor oils. The Clean Air Act prohibits the release of refrigerants into the atmosphere and requires that certified technicians extract refrigerants from white goods before disposal or recycling. Some States and Tribal Governments also require certified technicians to extract compressor oils before disposal or recycling. To avoid releases of refrigerants or oils, the collection of white goods should be accomplished carefully by manually placing the appliance on trucks or by using lifting equipment that will not damage the elements that contain the refrigerants or oils. The DMP should identify certified recycling centers that are permitted to take white goods.
Electronic Waste	Electronic waste (e-waste) refers to electronics that contain hazardous materials, such as computer monitors, televisions, cell phones, and batteries. These products may contain minerals and chemicals that require specific disposal methods.

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Soil, Mud, and Sand	Floods, landslides, winds, and storm surges often deposit soil, mud, and sand on improved public property and public rights-of-way. Facilities commonly affected by this type of debris include streets, sidewalks, storm and sanitary sewers, water treatment facilities, drainage canals and basins, parks, and public swimming pools.
Vehicles and Vessels	Vehicles and vessels may be damaged, destroyed, displaced, or lost as a result of a disaster. These vehicles and vessels may eventually be abandoned because of the damage incurred or because the original owners have relocated. Vehicles and vessels may be classified as debris if they block public access and critical facilities.
Putrescent Debris	Putrescent debris is any debris that will decompose or rot, such as animal carcasses and other fleshy organic matter.
Infectious Waste	Infectious waste is waste capable of causing infections in humans and can include contaminated animal waste, human blood, blood products, medical waste, pathological waste, and discarded sharp objects (needles, scalpels, or broken medical instruments). Clearance, removal, and disposal of infectious waste may be under the authority of another Federal agency (the Centers for Disease Control and Prevention, EPA, etc.).
Chemical, Biological, Radiological, and Nuclear–Contaminated Debris	Chemical, biological, radiological, and nuclear–contaminated debris is any debris contaminated by chemical, biological, radiological, or nuclear materials.

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Debris Collection and Removal

A debris collection strategy establishes a systematic approach for the efficient removal of debris. The clearance and collection of debris should be structured to meet response and recovery priorities. As such, the DMP should:

- Identify and prioritize facilities that may be impacted by debris;
- Define the priorities during both the response and recovery phase operations;
- Describe the coordination process with other entities responsible for managing debris;
- Identify the roles and responsibilities for all entities and departments involved; and
- Describe the methods that will be used to collect debris (e.g., curbside collection, community drop-off bins).

Debris Removal from Private Property

Debris removal from private property is generally the responsibility of the individual property owners; however, when it is in the public interest to remove debris, the Applicant may act to abate the threat. The DMP should include:

- Identification of the circumstances under which the Applicant will take such action;
- The enabling laws that allow government to intercede in private property matters;

- The process the jurisdiction will use to obtain permissions to enter onto private property; and
- The process the Applicant will undertake to recoup costs (such as insurance proceeds).

Public Information

The dissemination of debris removal information is critical to the effective and efficient removal of debris. The DMP should include a public information strategy to ensure that residents receive accurate and timely information about the parameters, rules, and guidelines for debris removal. For example, if allowing residents to place debris on the curb, information regarding the timeframe allowed and where and how to place the debris (e.g., segregated in shared piles with neighbors, not placed on sidewalks, in roadways, against fire hydrants or power lines).

Health and Safety Requirements

Debris operations can pose safety hazards and health risks to emergency workers and the public. The DMP should include specific details on safety rules and procedures to protect workers and the public and specific measures for adherence to safety rules and procedures.

Environmental Considerations and Other Regulatory Requirements

The removal and disposal of certain types of debris have impact on the human and physical environment. Successful debris operations depend on compliance with Federal, State, Territorial, Tribal, and local environmental laws. The DMP should identify all debris operations that may trigger compliance with environmental and historic preservation (EHP) laws, regulations, and Executive Orders. It should also identify how compliance will be achieved.

Temporary Debris Management Sites and Disposal Locations

The DMP should identify locations where the debris will be segregated, reduced, and disposed and whether it will be recycled.

The Applicants should avoid selecting sites in or near environmentally or historically sensitive areas such as floodplains, wetlands, critical habitats of federally endangered species, historic districts, and archaeologically sensitive areas. Debris must be staged a safe distance from property boundaries, surface water, wetlands, structures, wells, and septic tanks with leach fields. If an EHP concern is identified, the potential site should be ranked lower than others.

Environmental permits and land-use variances may be required to establish a temporary site. Several agencies may be involved in issuing permits and granting approvals. The planning process should identify the potential permits that will be required to establish a facility. A listing of the permits should be part of the DMP and may include:

- Waste processing and recycling operations permit
- Temporary land-use permits
- Land-use variances
- Traffic circulation strategies
- Air quality permits
- Water quality permits
- Coastal commission land-use permits

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- HHW permits
- Fire department permits
- Burn permits

The DMP should address traffic circulation at each of the disposal sites, disposal capacity, and how debris will be managed if there is a lack of landfill capacity. The DMP should identify the final disposal site of whole, reduced, or recycled debris.

Force Account or Contract Resources and Procurement

Jurisdictions can use staff resources, contractors, or a combination of both to monitor or conduct debris removal operations. The DMP should clearly define the types of work that the Applicant will perform with staff resources versus contracted services.

The DMP should describe the process and procedure for acquiring competitively procured contracted services, provide specific contract requirements, and explain how contractor qualifications are established.

Debris Removal Contractor Registry

FEMA developed an on-line debris contractor registry tool to assist Applicants in identifying and contacting contractor resources. The registry tool can be found on FEMA's website (www.fema.gov/debris-removal-contractor-registry-information). The information provided in the registry is maintained by contractors and their representatives. FEMA does not verify and takes no responsibility for the accuracy of the information submitted. FEMA does not endorse, approve, or recommend any contractors, including those in the registry. State, Tribal, and local governments should perform all appropriate due diligence prior to entering into a contract. Contracting with any of the entities listed in the registry does not ensure reimbursement.

Monitoring Debris Operations

The Applicant must monitor contracted debris removal operations. It may use staff resources, contractors, or a combination of both to monitor debris removal operations. FEMA encourages the Applicant to use its own employees to monitor debris removal operations. Professional Engineers and other certified professionals are not necessary for debris monitoring. The primary role for debris monitors is to document the location and amount of debris collected. Debris monitors should be able to estimate debris quantities, differentiate between debris types, properly fill out load tickets, and follow all site safety procedures.

The DMP should include details as to how the jurisdiction will monitor its debris removal contractor at pickup sites and all disposal sites, including temporary sites and final disposal areas. The DMP should discuss who will perform the monitoring and describe each monitoring task. If the jurisdiction outsources a monitoring task, it must award the contract to a contractor who has no vested interest in the debris removal contract or contractor. There must be no conflict of interest between the monitoring contractor and the debris removal contractor.

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Debris Management Plan Checklist

Yes	No	Plan Requirements	Comment
		Overview – Does the plan describe the purpose and objectives?	
		Incidents and Assumptions – Does the plan provide information on the types and anticipated quantities of debris that will be generated from various types and sizes of incidents?	
		Debris Collection and Removal – Does the plan have a debris collection strategy? Does the plan discuss the methods that will be used to remove debris and establish priorities for clearance and removal? Does the plan outline the roles and responsibilities of the various functions involved (Public Works, Finance, and Solid Waste Departments, etc.)?	
		Debris Removal on Private Property – Does the plan address the authority and processes for private property debris removal?	
		Public Information – Does the plan include a public information strategy to ensure that residents receive accurate and timely information about debris operations?	
		Health and Safety Requirements – Does the plan describe how workers and the public will be protected and discuss the specific measures for adherence to safety rules and procedures?	
		Environmental Considerations and Other Regulatory Requirements – Does the plan identify all debris operations that will trigger compliance with environmental and historic preservation laws and how compliance will be attained?	
		Debris Management Sites and Disposal Locations – Does the plan identify where the disaster debris will be segregated, reduced, and disposed or whether debris will be hauled to a recycler?	
		Use and Force Account or Contracted Resources and Procurement – Does the plan define the types of work force account labor will accomplish and the types of debris operations that will be contracted? Does the plan describe the process and procedure for acquiring competitively procured contracted services? Does the jurisdiction identify debris contractors that it has prequalified?	
		Monitoring of Debris Operations – Does the plan describe how debris removal contractors will be monitored and who will monitor at pickup sites, Debris Management Sites / Temporary Debris Storage and Reduction Sites, and final disposal?	

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APPENDIX E: STUMP CONVERSION TABLE

Diameter to Volume Capacity

FEMA quantifies the amount of cubic yards of debris for each size of stump based on the following formula:

$$\frac{[(\text{Stump Diameter}^2 \times 0.7854) \times \text{Stump Length}] + [(\text{Root-Ball Diameter}^2 \times 0.7854) \times \text{Root-Ball Height}]}{46{,}656}$$

0.7854 is one-fourth Pi and is a constant.
46,656 is used to convert cubic inches to cubic yards and is a constant.

The formula used to calculate the cubic yardage used the following factors, based upon findings in the field:

- Stump diameter measured 2 feet up from the ground
- Stump diameter to root-ball diameter ratio of 1:3.6
- Root-ball height of 31 inches

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Stump Diameter (Inches)	Debris Volume (Cubic Yards)	Stump Diameter (Inches)	Debris Volume (Cubic Yards)
6	0.3	46	15.2
7	0.4	47	15.8
8	0.5	48	16.5
9	0.6	49	17.2
10	0.7	50	17.9
11	0.9	51	18.6
12	1	52	19.4
13	1.2	53	20.1
14	1.4	54	20.9
15	1.6	55	21.7
16	1.8	56	22.5
17	2.1	57	23.3
18	2.3	58	24.1
19	2.6	59	24.9
20	2.9	60	25.8
21	3.2	61	26.7
22	3.5	62	27.6
23	3.8	63	28.4
24	4.1	64	29.4

Stump Diameter (Inches)	Debris Volume (Cubic Yards)	Stump Diameter (Inches)	Debris Volume (Cubic Yards)
25	4.5	65	30.3
26	4.8	66	31.2
27	5.2	67	32.2
28	5.6	68	33.1
29	6	69	34.1
30	6.5	70	35.1
31	6.9	71	36.1
32	7.3	72	37.2
33	7.8	73	38.2
34	8.3	74	39.2
35	8.8	75	40.3
36	9.3	76	41.4
37	9.8	77	42.5
38	10.3	78	43.6
39	10.9	79	44.7
40	11.5	80	45.9
41	12	81	47
42	12.6	82	48.2
43	13.3	83	49.4
44	13.9	84	50.6
45	14.5		

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APPENDIX F: HAZARDOUS STUMP WORKSHEET

Applicant: _____ Date: _____

Applicant Representative: _____ Signature: _____

FEMA Representative (if available) _____ Signature: _____

	Physical Location (i.e., Street address, road, cross streets, etc.)	Description of Facility (ROW, Park, City Hall, etc.)	Hazard		U.S. National Grid (USNG) Location	Tree Size (Diameter)	Eligible		Fill For Debris Stumps	Comments (See attached sketch, photo, etc.)
			Yes	No			Yes	No	CY	
1										
2										
3										
4										
5										
6										
7										
8										
9										
10										

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APPENDIX G: MOSQUITO ABATEMENT

FEMA may provide reimbursement for mosquito abatement measures at the written request of the State, Territorial, Tribal, or local public health officials after FEMA consults with the Centers for Disease Control and Prevention (CDC), based on:

- Evidence of:
  - Higher levels of disease transmitting mosquitoes in the disaster area following the event;
  - A significant number of disease-carrying mosquitoes in the area due to the increase in event-related standing water; or
  - The potential for disease transmission and human exposure to disease carrying mosquitoes based on the detection of arboviral diseases in sentinel organisms (poultry, wild birds, mosquito pools) in the impacted area prior to the storm event, discovered during surveillance as part of mosquito abatement activities, or reported human cases in which transmission occurred prior to the storm event.
- A determination that a significant increase in the mosquito population and/or the change of biting mosquito species poses a threat to emergency workers who are required to work out-of-doors, thereby significantly hampering response and recovery efforts.

  Such evidence may include an abnormal rise in landing rates or trap counts, significant changes in species composition or estimate of infection rates, when compared to pre-disaster surveillance results.
- Verification from medical facilities within the affected area that an increase in the general public's exposure to mosquitoes has directly resulted in secondary infections, especially among those with weakened immune systems such as the elderly, the very young, or the sick.

  This may occur when increased numbers of residents in disaster areas with extended power outages are forced to open buildings for air circulation.

Terminology

An **arbovirus** is a virus utilizing arthropods as vectors and is transmitted via their feeding to a definitive host.

The **landing rate,** expressed as number of mosquitoes landing per minute, is used as an adult mosquito surveillance measure utilizing human volunteers as bait.

Methoprene Briquettes are formulated with methoprene (compound that mimics the action of an insect growth-regulating hormone and prevents the normal maturation of insect larvae) growth inhibitor and a timed-release carrier that resembles a charcoal briquette.

A **sentinel organism** is an organism, usually fowl, purposely exposed to mosquito bites outdoors to monitor pathogen transmission by mosquitoes.

Seroconversion is the development of detectable antibodies in the blood of a sentinel organism directed against an infectious agent.

Trap count is the number of female mosquitoes captured in a trap receptacle each night the traps are set.

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Where possible, a determination of the need for vector control measures should be based on surveillance data provided by local agencies, or on surveillance conducted as a component of the

emergency response. Similarly, termination of control efforts should be based on mosquito density and disease transmission monitoring, and on the degree of exposure to mosquitoes of residents and responders. Information useful in determining the need for emergency mosquito control measures includes:

- The local jurisdiction's mosquito population density estimates pre- and post-disaster, including information about species composition
- Arbovirus transmission activity indices, including information about the location of surveillance activities; indices may consist of:
    - Infection rates in mosquitoes
    - Seroconversion in sentinel chickens
    - Equine case
    - Human cases
- The amount and type of flooding (e.g., saltwater/freshwater, coastal/inland)
- The extent and location of damage to housing
- The extent, location, and anticipated duration of power interruption
- The anticipated extent and duration of cleanup and recovery operations
- A description of the type of mosquito management required (e.g., aerial or ground- based adulticide applications, larvicide applications), and duration of application to reduce the threat and the areas where the interventions are needed

To be eligible for Public Assistance (PA) funding, insecticide formulations must be among those approved and registered by the U.S. Environmental Protection Agency for use in urban areas for mosquito control, and must be applied according to label directions and precautions by appropriately trained and certified applicators. Furthermore, mosquito abatement measures must comply with all Federal, State, Territorial, and local laws, ordinances, and regulations concerning vector control. Mosquito abatement measures include, but are not limited to the following:

- Adulticiding – The ground or aerial spraying of insecticides to kill adult mosquitoes
- Larviciding – The application of chemicals, including methoprene briquettes, by ground or air to kill mosquito larvae or pupae
- Breeding habitat removal or alteration – The modification of potential breeding habitat to make it unsuitable for mosquito breeding or to facilitate larval control, including:
    - Draining or removing standing water in close proximity to homes, schools, sheltering facilities, and businesses
    - Increased dewatering through the pumping of existing drainage systems
    - Dissemination of information (e.g., inserting flyers with resident's water bills, public service announcements, newspaper campaigns) to direct residents to remove the mosquito breeding habitat

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APPENDIX H: SNOW ASSISTANCE

Snow-related activities, including snow removal, de-icing, salting snow dumps, and sanding of roads and other eligible facilities, is only an eligible emergency protective measure when a winter storm event results in record or near-record[391] snowfall.[392] FEMA authorizes snow assistance by county based on a finding that the county received record or near-record snowfall or meets the contiguous county criteria as described below. FEMA will evaluate Tribal lands as part of a requested county or separately.

Record or Near-Record Snowfall

FEMA utilizes data collected by the National Oceanic and Atmospheric Administration's National Centers for Environmental Information (NCEI) to identify the historical 1-, 2-, and 3-day snowfall records for each county. For current event snowfall, FEMA relies primarily on snowfall measurements taken at National Weather Service (NWS) Cooperative Network Stations, but will accept measurements from other sources if those measurements are verified as reasonable and accurate by the NWS. Historical 1-, 2-, and 3-day snowfall records by county are available on the NCEI Snow Climatology Database (SCDB) at the following website: www.ncdc.noaa.gov/snow-and-ice/snowfall-extremes. Daily snowfall reports by county are available at: www.ncdc.noaa.gov/snow-and-ice/daily-snow.

FEMA follows the following process to determine record or near-record snowfalls:

- Compare current snowfall amounts with the historical record snowfall amounts for a like number of days without regard for the month in which the record snowfall or current event occurred.
- For multiple-day snowstorms, a county or Tribal lands that meet the 1-day record or near-record requirement on any 1 day, or the 2-day record or near record over 2 consecutive days, or the 3-day record or near record over 3 consecutive days, etc., will have met the record or near-record criteria for that county or Tribal lands.
- FEMA relies on the NWS to determine the duration of the snowstorm.
- When data from multiple NWS-verified sources exist within a county, or Tribal lands, compare the highest current event snowfall reported by the NWS within that county or Tribal land with the highest historical record snowfall for that county or Tribal land.
- For counties or Tribal lands that do not have NCEI or NWS historical record snowfall data, use the historical record from the nearest NWS Cooperative Network Station in an adjacent county or Tribal land, even if located in an adjacent State, for determining historical snowfall records.
- If current event snowfall data are not available from the NWS for a county or Tribal land, use the nearest NWS Cooperative Network Station data from an adjacent county, even if located in an adjacent State.
- FEMA may designate a county or Tribal land that does not receive a record or near-record snowfall, but is contiguous to a county (generally referred to as a "core county") that does receive a record or near-record snowfall, for snow assistance if the county or Tribal land has current event snowfall that meets or exceeds the current event snowfall of

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[391] FEMA generally considers near record as being within 10 percent of the record snowfall.
[392] 44 CFR §206.227.

the core county, to which it is contiguous. Base this comparison on the highest current event snowfall received by each county as reported by the NWS.

- Consider counties or Tribal areas that experience snowfalls occurring over a period exceeding 3 consecutive days that do not reach record or near-record snowfalls during a 3-day period, and for which there are no historical snowfall records for a period exceeding 3 days with NCEI or NWS, on a case-by-case basis.

Winter Storm or Snowstorm Declaration Requests

The request for a Major Disaster Declaration must include a request for snow assistance as part of that declaration. All such requests are subject to the requirements and processes established in the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended, and FEMA regulations.[393] In addition to the information required in every disaster request, requests for snow assistance must include the following information:

- Identification of core and contiguous counties[394] for which a snowstorm declaration is requested;
- Duration of snowfall, as identified or confirmed by the NWS; and
- For each requested county or Tribal land, daily snowfall totals from NWS stations or NWS-verified sources and historical record snowfall data from the NCEI.

Generally, the current event weather and snowfall information is included in a statement or report from the NWS describing the event.

FEMA only includes costs related to snow activities as part of the preliminary damage assessment data for counties or Tribal lands that meet the record or near-record criteria or qualify as contiguous counties.

Other categories of work, including Permanent Work, may be authorized for snowstorm or winter storm declarations as appropriate.

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[393] 44 CFR §206 Subpart B (206.31–48).

[394] "Core County" means a county that has a record or near record snowfall with public assistance costs that exceed the annually established countywide per capita impact indicator and is designated for snow assistance under a major disaster declaration. "Contiguous County" means a county in the same State that shares a common border with a core county without geographic separation other than by a minor body of water, typically not exceeding one mile between the land areas of such counties.

APPENDIX I: MOLD REMEDIATION

Mold Remediation Methods

The following list describes common mold remediation methods.

Method	Application
Wet Vacuum	• Use when materials are wet • Use where water has accumulated, such as on floors, carpets and hard surfaces • Do not use when sufficient liquid is not present
Damp Wipe	• Wipe or scrub non-porous (hard) surfaces with water and detergent • Follow instructions listed on the product label
High Efficiency Particulate (HEPA) Vacuum	• Final clean-up after thoroughly dry and contaminated materials are removed • Recommended for cleanup of dust outside of the remediation area • Properly seal HEPA filter • Personal protection equipment is highly recommended; filter and contents must be disposed of in well-sealed bags
Discard	• Use for building materials and furnishings that cannot be remediated • Seal contents in two bags using 6-mil polyethylene sheeting • Cover large items in polyethylene sheeting and seal with duct tape • Sealing materials must be within containment area to limit further contamination

Summarized from Indoor Environments Division of the U.S. Environmental Protection Agency, "Mold Remediation in Schools and Commercial Buildings": http://www.epa.gov/mold/mold_remediation.html.

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Application of Remediation Methods

The following list outlines typical mold remediation actions.

Water Damaged Material	Action
Books and paper	• Non-valuable items – discard • Valuable/important – photocopy and discard originals • Invaluable items – freeze in frost-free freezer or meat locker, or freeze dry
Carpet and backing	• Wet vacuum • Reduce ambient humidity levels with dehumidifier • Accelerate drying process with fans
Ceiling tiles	• Discard and replace
Cellulose insulation	• Discard and replace
Concrete or cinder block surfaces	• Wet vacuum • Accelerate drying process with dehumidifiers, fans, and/or heaters
Fiberglass Insulation	• Discard and replace

Water Damaged Material	Action
Hard surfaces, porous floorings (linoleum, ceramic tile, vinyl)	• Vacuum or damp wipe with water and mild detergent • Scrubbing may be necessary • Allow to dry
Upholstered furniture	• Wet vacuum • Accelerate drying process with dehumidifiers, fans, and/or heaters
Wallboard (drywall and gypsum board)	• If obvious swelling and seams are not intact – discard • If no obvious swelling and seams are intact – may be dried in place • Ventilate wall cavity
Window drapes	• Launder or clean according to manufacturer's instructions
Wood surfaces	• Remove water with wet vacuum • Accelerate drying process with dehumidifiers, fans, and/or heaters • Wet paneling – discard and ventilate wall cavity

Summarized from Indoor Environments Division of the U.S. Environmental Protection Agency, "Mold Remediation in Schools and Commercial Buildings": *www.epa.gov/mold/table1.html*.

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APPENDIX J: COST-EFFECTIVE HAZARD MITIGATION MEASURES

FEMA considers the following mitigation measures to be cost-effective if the measures do not exceed 100 percent of the eligible repair cost (prior to any insurance reductions). The mitigation measures must meet all eligibility requirements described in Chapter 2:VII.C: Hazard Mitigation. There may be instances where these measures are required by codes or standards. In such cases FEMA first evaluates whether the work is eligible as a code or standard upgrade (See Chapter 2:VII.B).

I. Drainage Structures:

A. Replace the structure with multiple structures or a larger structure. The Applicant may use existing State, Territorial, Tribal, or local drainage criteria for sizing replacement culverts. The Applicant must consider replacement structures with regard to a total drainage system and cannot upgrade structures without a watershed hydrology study with an emphasis on downstream effects and National Flood Insurance Program regulations.

Example

Adding a relief culvert located at the same crossing site as a damaged culvert and in the embankment above the flow line of the primary culvert or located upstream of the main culvert. A relief culvert provides an alternate route for the flow if the main culvert is over capacity or gets plugged, and prevents sedimentation through the high-flow scouring action.

B. For the purpose of erosion control, add properly designed entrance and exit structures, such as a headwall, wingwalls, flared aprons, or energy dissipation measures to increase efficiency and help to minimize scour and erosion. Depending on the severity of erosion, , solutions for bank protection may include gabion baskets, rip rap, cast-in-place concrete, crushed stone or rock, grouted rip rap[395], sheet-piling, geotextile fabric, or similar measures to control erosion. Alternatively, the use of vegetation or a combination of vegetation and construction materials such as live fascines, vegetated geogrids, live cribwalls, brushmattresses, root wads, or similar measures are eligible. The Applicant should consider using green infrastructure techniques such as bioswales, bioretention, rain gardens and similar techniques that may be used in public drainage systems.

C. Culverts:

1. Where the alignment of a culvert is inconsistent with existing water flow, realign the culvert vertically or horizontally or relocate the culvert to improve hydraulics and minimize erosion and scour. The Applicant must consider realignment of structures with regard to a total drainage system and cannot replace structures without a watershed hydrology study with an emphasis on downstream erosion effects.

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[395] Projects involving grouted rip rap may be subject to an environmental assessment and may not be allowable in all instances.

2. Extend the culvert discharge to mitigate erosion and scour by extending the discharge end beyond the toe of the embankment.
3. Install a debris barrier to prevent debris blockage or fins designed to orient floating debris for passage through the culvert.
4. Install a debris barrier riser to allow debris to float up with the rising floodwaters without blocking flow into the culvert.

II. Transportation Facilities:

A. Bridges:

1. Where traffic counts are low, replace with low-water crossings.
2. Install cables to restrain a bridge from being knocked off piers or abutments during floods or earthquakes.
3. Install girder and deck uplift tie-downs to prevent their displacement from the substructure.
4. Install Longitudinal Peaked Stone Toe Protection with nature planting, upstream of a failed abutment, to provide a stable floodplain bench for the protection of the abutment and the adjoining bridge approach. Consider other relevant Bio-engineering applications such as engineered logjams, log vanes or log bendway weir.

B. Marine Pier Ramps: If attached to decking, install open decking or floating decking with uplift-resistant tie-downs and fasteners.

C. Roadways and Railways: Where shoulders are susceptible to overflow from adjacent water courses, stabilize shoulders and embankments with geotextile fabric and revetments.

D. Roadways: Use geotextile drainage blankets between the pavement section and subbase to strengthen subgrade.

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III. <u>Mechanical, Electrical, Plumbing (MEP) Components</u>

A. Provide seismic bracing for electrical lines, conduit, piping, duct-work, water heaters, and other MEP equipment. Components can be wall mounted, floor mounted, or suspended.

B. Roof-Mounted Equipment: Secure to roof top via a continuous load path, using tie-downs, straps, or other anchoring systems that will resist expected wind forces.

C. Elevate or dry floodproof components or systems vulnerable to flood damage, including equipment controls, electrical panels; heating, ventilation, and air conditioning/machinery rooms; emergency generators; and fuel tanks. When wiring cannot be elevated, replace with equipment suitable for submerged applications.

D. Install switches, circuit isolation and/or quick connect capability to facilitate rapid connection of backup power for any damaged or susceptible mechanical and electrical components.

E. Install camlocks, transfer switches, and electrical panels to facilitate the connection of portable emergency generators.

IV. Pipes:

A. Install pipe joint restraints, flexible piping at pipe/conduit connections, or replace pipes with more ductile material.

B. Install continuous lining or encasement to prevent infiltration or structural collapse.

C. Underground Pipes: Install shut-off valves so that damaged sections of pipe can be isolated.

V. Water/Wastewater:

A. Pumps: If pumps and their attached motors are damaged by stormwater inundation, replace them with submersible or inline pumps as appropriate.

B. Sewer Access Covers: Elevate to the hydraulic grade line. When elevation is not feasible or practicable, install devices to prevent infiltration into access holes such as cast iron watertight frames and covers.

C. Well Systems: Seal exposed portions of well casing or raise the elevation of the well head to prevent infiltration of flood waters.

D. Raw water intakes: Install buttressing to prevent damage from erosion, scour, and flood debris.

VI. Electric Power Systems:

A. Provide looped distribution service or other redundancies in the electrical service to critical facilities, such as hospitals and fire stations.

B. Install surge suppressors and lightning arrestors.

C. Transformers:

1. Elevate pad transformers above the Base Flood Elevation.
2. Support pole-mounted transformers with multiple poles.

D. Power Poles:

1. Replace damaged poles with higher-rated poles (preferably two classes stronger) of the same or different material. When replacing poles with higher-rated poles, install guys and anchors to provide lateral support for poles supporting pole-mounted transformers, regulators, capacitor banks, reclosers, air-break switches, or other electrical distribution equipment.
2. Remove large diameter lines.
3. Add cross-bracing to H-frame poles to provide additional strength.
4. Power Lines: Add guy-wires or additional support.

VII. <u>Storage Tanks:</u>

A. Anchor or otherwise protect from movement by strengthening or stiffening base connections.

B. Install self-initiating disconnects and shut-off values between tanks and distribution lines to minimize damage and leaks.

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VIII. Buildings and Structures:

A. For small support buildings subject to uplift or rollover from high winds, securely anchor the buildings to foundations to prevent toppling or becoming missile hazards.

B. Dry or wet floodproof buildings.

C. Footings: Where spread footings have been undercut by scour, underpin footings.

D. Siding: Replace with a stronger siding with stronger attachments to the wall sheathing and structure.

E. Vents: Replace with water-resistant vents.

F. Non-structural Building Components: Brace interior walls, partitions, parapets, anchor veneer or cladding, suspended light features, drop ceilings, soffits, and other non-structural elements that could collapse and cause injury or block safe exit of a building during an earthquake or high-wind event.

G. Furnishings: Provide seismic ties, straps, or clips to secure replaced furniture, cabinets, computers, bookcases, and other furnishings.

H. Roofs

1. Install hurricane clips, fasteners, anchors, straps, and connectors that are compatible with the roof system and corrosion-resistant in coastal areas.
2. Strengthen the high-wind pressure areas (e.g., corner zones, roof soffits, overhangs).
3. Strengthen roof openings, such as hatches and skylights.
4. Low Slope Roofs: Replace entire roof with a roof covering with a secondary membrane and a fully adhered roof covering, such as modified bitumen. Mechanically fastened insulation or membranes are not acceptable.
5. Gable Roofs: Replace the gable-end framing with hipped roof framing to reduce wind forces (lower edge pressure; reduced projected wind area) and strengthen the roof framing.
6. Gutters and Downspouts: Upgrade to direct water away from the structure to prevent interior or basement water damage.

I. Doors and Windows:

1. Upgrade the weather stripping to prevent water infiltration.
2. Replace doors, door frames, hinges, and hardware with wind-resistant units.
3. Strengthen windows.
4. Replace glass with impact-resistant material.
5. Install shutters on windows:
   a. Of critical facilities, such as hospitals.
   b. On the lower floors of non-critical facilities most likely to be struck by debris.
   c. Of buildings with very high-value contents that can be damaged by water (such as libraries and document centers).
   d. Of buildings where failure of roofing materials or other portions of nearby structures could create impact hazards.

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IX. Signage: Replace sign panels and their supports with a stronger type of system of supports and panels. Consider using multiple support posts and stronger panels and fasteners.

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APPENDIX K: WORK ELIGIBILITY CONSIDERATIONS BY TYPE OF FACILITY

Work Eligibility Considerations: All Facilities		
Pages	**Topic**	**Applicability**
Chapter 2:III	**Facility Eligibility**	All Permanent Work.
Chapter 2:IV	**General Work Eligibility** ○ Result of Declared Incident ○ Within Designated Area ○ Legal Responsibility	All work.
Chapter 2:V	**Cost Eligibility**	All work.
Chapter 2:VI	**Emergency Work Eligibility**	All Emergency Work.
Chapter 2:VI.A	**Debris Removal Eligibility**	All Debris Removal Work.
Chapter 1:II.C; Chapter 2:VI and VI.A; Chapter 2:VII, VII.B.4 and 7, and VII.G; Appendix A	**Environmental and Historic Preservation (EHP) Compliance Considerations (including permit requirements)**	All work (including ground disturbance for any staging areas, access roads, parking, landscaping, grading, or utilities).
Chapter 2:VII.B	**Codes and Standards**	Upgrades to pre-disaster design required by codes or standards.
Chapter 2:VII.C and Appendix J	**Hazard Mitigation**	Work to reduce or eliminate similar damage to the facility from a future incident.
Chapter 2:III.E and VII.D	**Replacement**	When cost to repair disaster-related damage exceeds 50% of cost to replace facility.
Chapter 2:VII.E	**Permanent Relocation**	Destroyed facilities.
Chapter 2:VII.B.5 and VII.F	**Floodplain Considerations**	All Permanent Work in or impacting the floodplain
Chapter 2:VI.B.21 and VII.H.6	**Landslides and Slope Stabilization**	Facilities damaged due to a landslide or slope instability triggered by the incident.
Chapter 2:VI.B.17	**Temporary Relocation**	Certain essential community services provided in public and PNP facilities.

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Work Eligibility Considerations: Roads and Bridges				
Road (including surface, base, shoulders, roadside ditches, guardrails, lighting, signage, sidewalks, etc.), drainage structure (culvert, low-water crossing), bridge (including but not limited to decking, pavement, piers, girders, abutments, slope protection, approaches, guardrails, lighting, signage, sidewalks)				
EHP laws, regulations, and EOs that commonly apply: NEPA; NHPA, ESA, CWA, CAA, EOs 11988 and 11990; projects involving work in waterways generally require Section 404 permits – permits issued by the USACE as required by the CWA.				
Pages	**Category**	**Eligible Work (including, but not limited to):**	**Ineligible Work and Costs**	**Other Considerations**
Chapter 2:VI.A	**A**	**Debris removal and disposal to eliminate an immediate threat**		Must distinguish between incident-related debris versus debris generated by other recent events.
Chapter 2:VI.B.6	**B**	**Emergency access** ○ Debris clearance or temporary repairs to restore access.	○ Removal of debris from a privately owned access facility UNLESS no other access point exists and damage or debris impedes emergency access. ○ Emergency repairs to privately owned roads UNLESS no other access point exists, damage impedes emergency access, and repair eliminates temporary housing needs.	
Chapter 2:VI.B.20	**B**	**Temporary emergency repairs to address an immediate threat**	○ Temporary repair of Federal aid roads.	
Chapter 2:III.E V.R.1 and 2, and VII.H.1	**C**	**Restoration: Permanent repair or replacement**	○ Loss of useful service life. ○ Loss of toll revenue. ○ Construction of additional lanes even if required by a code or standard, except when code requires changing a one lane bridge to two lanes. ○ Normal maintenance. ○ Restoration of Federal aid roads.	○ Must distinguish between minor incident-related damage and damage related to age of the road, traffic flow, and frequent rain events. ○ Need date of construction for culvert and any nearby structures that may be altered or affected by the project. ○ Hydrologic and hydraulic studies to evaluate upstream and downstream impacts are necessary if replacing culvert with larger culvert.

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Work Eligibility Considerations: Water Control Facilities				
Dam or reservoir, irrigation and water conveyance (canal, pipeline, lateral, pump station, siphon), aqueducts, drainage channels, sediment and debris basins, stormwater retention and detention basins, coastal shoreline protection facilities (seawall, revetment), flood control work (levee, floodwall, flood control channel, dam, or basin, and other structure primarily used for flood control), navigational waterways, and shipping channels				
EHP laws, regulations, and EOs that commonly apply: NEPA; NHPA, ESA, CWA, EOs 11988 and 11990; projects involving work in waterways generally require Section 404 permits – permits issued by the USACE as required by the CWA.				
Pages	**Category**	**Eligible Work (including, but not limited to):**	**Ineligible Work and Costs**	**Other Considerations**
Chapter 2:VI.A.4.b	**A**	**Debris removal and disposal (from natural feature or engineered facility) to eliminate an immediate threat** ○ For navigable waterways, debris removal eligibility is limited to a max depth of 2 feet below the low tide draft of the largest vessel that utilized the waterway prior to the incident. ○ For non-navigable waterways, debris removal is only eligible to the extent that it is necessary to eliminate an immediate threat if the debris: - Obstructs, or could obstruct, intake structures; - Could cause damage to structures; or - Is causing, or could cause, flooding to property during the occurrence of a 5-year flood.	○ Removal of debris to eliminate a threat of flooding to agricultural land. ○ Random surveys to look for debris. ○ Debris removal from flood control works that are under the specific authority of NRCS.	○ Must distinguish between incident-related debris versus pre-existing debris and debris generated by other incidents. ○ Cannot duplicate funding provided by another Federal agency (e.g., USACE or NRCS).

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Work Eligibility Considerations: Water Control Facilities				
Dam or reservoir, irrigation and water conveyance (canal, pipeline, lateral, pump station, siphon), aqueducts, drainage channels, sediment and debris basins, stormwater retention and detention basins, coastal shoreline protection facilities (seawall, revetment), flood control work (levee, floodwall, flood control channel, dam, or basin, and other structure primarily used for flood control), navigational waterways, and shipping channels				
EHP laws, regulations, and EOs that commonly apply: NEPA; NHPA, ESA, CWA, EOs 11988 and 11990; projects involving work in waterways generally require Section 404 permits – permits issued by the USACE as required by the CWA.				
Chapter 2:VI.B.4 and 20	**B**	**Flood-fighting (on natural feature or engineered facility) or emergency, temporary repairs (engineered and maintained facility only) to address an immediate threat** ○ The repair of deliberate breaches or removal of flood-fighting measures is eligible as part of the Category B emergency protective measure project.	○ Emergency protective measures to reduce the threat of flooding to agricultural land. ○ Temporary emergency repair of flood control works that are under the authority of USACE or NRCS. ○ Flood-fighting measures on a flood control work that is under the authority of the NRCS. ○ Permanently increasing height or capacity of a flood control work. ○ De-watering of flooded areas primarily for the purpose of drying land. ○ Emergency repair of a secondary levee riverward of a primary levee. ○ Temporary, emergency repairs of flood control works under the authority of NRCS and USACE and of federally constructed coastal shoreline protective features under the authority of USACE.	○ USACE can conduct flood fighting activities. USACE cannot reimburse Applicants for flood fighting efforts.
Chapter 2:VII.H.2(a) and (b)	**D**	**Debris and silt removal required to restore capacity (engineered and maintained facilities only)** ○ Eligible, but only if the Applicant provides documentation to establish the pre-disaster capacity of the facility AND that the facility was actively used and maintained with a regular clearance schedule.	○ Restoration of flood control works under the authority of USACE or NRCS.	

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Work Eligibility Considerations: Water Control Facilities				
Dam or reservoir, irrigation and water conveyance (canal, pipeline, lateral, pump station, siphon), aqueducts, drainage channels, sediment and debris basins, stormwater retention and detention basins, coastal shoreline protection facilities (seawall, revetment), flood control work (levee, floodwall, flood control channel, dam, or basin, and other structure primarily used for flood control), navigational waterways, and shipping channels				
EHP laws, regulations, and EOs that commonly apply: NEPA; NHPA, ESA, CWA, EOs 11988 and 11990; projects involving work in waterways generally require Section 404 permits – permits issued by the USACE as required by the CWA.				
Chapter 2:II.D, III.C, and VII.H.2	**D**	**Restoration: Permanent Repair or Replacement** ○ PNP irrigation facilities are only eligible if they provide water for essential services of a governmental nature to the general public for fire suppression, generating and supplying electricity, and drinking water supply.	○ Restoration of natural channels, lakes, and shorelines—that is, any feature that is not improved and maintained. ○ Restoration of private non-profit irrigation systems that provide water for agricultural purposes. ○ Restoration of federally constructed coastal shoreline protective features. ○ Restoration of flood control works under the authority of USACE or NRCS.	

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Work Eligibility Considerations: Buildings, Vehicles, and Equipment				
EHP laws, regulations, and EOs that commonly apply: NEPA, NHPA, CAA, ESA and EOs 11988 and 11990				
Pages	**Category**	**Eligible Work (including, but not limited to):**	**Ineligible Work and Costs**	**Other Considerations**
5Chapter 2:VI.B	**B**	**Extracting water and removing mud and silt from interior to address immediate threat of additional damage or for access for assessment.**	○ Conducted on private property UNLESS FEMA approves the work because: - The immediate threat is widespread, such that it is a threat to the health and safety of the general public; - The Applicant has legal authority to perform the work; and - The Applicant obtained rights-of-entry and agreements to indemnify and hold harmless the Federal Government.	
Chapter 2:VII.H.3(a)	**E**	**Extracting water and removing mud, silt, or debris from interior in conjunction with repairs.**		
Chapter 2:VI.B.22	**B**	**Mold remediation to address immediate threat of additional damage** ○ Post-remediation sampling to confirm remediation is complete.	○ Mold remediation required as a result of poor facility maintenance or failure to take protective measures in a reasonable amount of time following event.	○ Pre-remediation mold sampling is only eligible when sampling reveals presence of mold.
Chapter 2:VII.H.3(a)	**E**	**Mold remediation when conducted in conjunction with restoring the facility** ○ Post-remediation sampling to confirm remediation is complete.	○ Mold remediation required as a result of poor facility maintenance or failure to take protective measures in a reasonable amount of time following event.	○ Pre-remediation mold sampling is only eligible when sampling reveals presence of mold.

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Work Eligibility Considerations: Buildings, Vehicles, and Equipment				
EHP laws, regulations, and EOs that commonly apply: NEPA, NHPA, CAA, ESA and EOs 11988 and 11990				
Chapter 2:VI.B and B.20	**B**	**Emergency protective measures to address an immediate threat** ○ Buttressing, bracing, or shoring. ○ Barricading and safety fencing. ○ Flood protection, such as sandbagging. ○ Temporary emergency repairs.		
Chapter 2:VI.B.16	**B**	**Demolition to address an immediate threat** ○ Demolition of private structures may be eligible when collapse is imminent and an immediate threat exists to the general public subject to additional requirements.	○ Removal of slabs or foundations that do not present a health or safety hazard. ○ Removal or covering concrete pads and driveways. ○ Exception to both – Structures in a buyout program funded by FEMA through the HMGP.	○ If securing a damaged building to prevent access is sufficient to alleviate the threat to public safety, demolition may not be necessary or eligible.
Chapter 2:VII.D.3	**E**	**Demolition when replacing a facility** ○ Including removal and disposal of associated debris.		
Chapter 2:VI.B.14	**B**	**Safety inspections** ○ To establish whether a building is safe for entry, occupancy, and lawful use, as well as posting appropriate placards. ○ Eligible for both public and private buildings.	○ Inspections associated with: ▪ A determination of Substantial Damage under the community's floodplain management ordinance. ▪ A determination of whether the building needs to be elevated or relocated. ▪ For ensuring repairs are completed in accordance with building codes and standards.	

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Work Eligibility Considerations: Buildings, Vehicles, and Equipment				
EHP laws, regulations, and EOs that commonly apply: NEPA, NHPA, CAA, ESA and EOs 11988 and 11990				
Chapter 2:V.O, VII.H.3(a), and Appendix C	**E**	**Post-earthquake inspection and evaluation of welded steel moment frames in buildings** ○ To determine the level of disaster-related damage requiring repair.	○ Preliminary assessment to determine which buildings are likely to have sustained damage to welded steel moment frame connections. ○ Detailed analytical or experimental studies. ○ Inspection that does not yield earthquake-related connection damage.	
Chapter 2:V.R.3, VII.B.6 and H.3(a) and (b)	**E**	**Restoration – Permanent repair or replacement** ○ Repair or replacement of buildings ○ Repair or replacement of building components, vehicles or equipment with items similar in age, condition, and capacity.	○ Tax assessments. ○ Additional capacity necessary due to increased population or use, even if required by code. ○ ADA upgrades related to a violation that the Applicant was notified of prior to the incident.	○ Need date of construction. ○ Check National Register of Historic Places or a State historic register. ○ Identify whether the building is located in the 100-year floodplain (500-year for critical actions). ○ FEMA provides assistance for Public Housing Authority facilities, unless Congress appropriates funds to HUD for emergency capital needs for specific PHA facilities. ○ Must consider the age of the building, roof, and building systems; evidence of regular maintenance; severity and impacts of incident when distinguishing between incident-related damage and pre-existing damage. ○ Comply with federally required minimum codes and standards when repairing or replacing building. ○

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Work Eligibility Considerations: Contents				
Furnishings, equipment, consumable supplies, files, records, research-related contents, animals, irreplaceable collections and individual objects, library books, and publications.				
Pages	**Category**	**Eligible Work (including, but not limited to):**	**Ineligible Work and Costs**	**Other Considerations**
Chapter 2:VI.B and VI.B.17.	**B**	**Address an immediate threat** ○ Removal and storage of contents to prevent additional damage		
Chapter 2:VII.H.3	**E**	**Restoration – Permanent repair or replacement** ○ Replacement of destroyed contents with items similar in age, condition, and capacity. ○ Recovering and stabilizing records. ○ Stabilization of irreplaceable collections and individual objects is eligible. ○ Re-shelving, cataloging, and other work incidental to the replacement of library books and publications.	○ Replacing used items with new items, unless a used replacement item is not reasonably available. ○ Establishing new information databases. ○ Manually re-entering data into new computers ○ Scanning re-established hardcopy files into computers to create digital files. ○ Deciphering photocopies of damaged hard copies. ○ Research-related contents and animal replacement, if a comparable item/animal is not available for purchase at a reasonable cost. ○ Replacement of rare books, collections, or objects.	○ Applicants may replace contents with different items used for the same general purpose. Eligible funding is capped at the estimated cost for equivalent items.

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Work Eligibility Considerations: Utilities				
Water storage, treatment plants, and delivery systems; power generation, transmission, and distribution facilities, including, but not limited to, natural gas systems, wind turbines, generators, substations, and power lines; sewage collection systems and treatment plants; communication systems				
EHP laws, regulations, and EOs that commonly apply: NEPA, NHPA, ESA, CAA, CWA, and EOs 11988 and 11990				
Pages	**Category**	**Eligible Work (including, but not limited to):**	**Ineligible Work and Costs**	**Other Considerations**
Chapter 2:V.G.2, and R.1, VI.B, and B.6, 13, 17, and 20	**B**	**Emergency protective measures to address an immediate threat** ○ Buttressing, bracing, or shoring. ○ Barricading and safety fencing. ○ Flood protection, such as sandbagging. ○ Temporary, emergency repairs. ○ Residential electrical meter repair	○ Revenue lost due to shutdown of a utility. ○ Increased operating costs, such as increased costs for obtaining an alternative source of power because of the shutdown of a power generation plant.	○ If repairs conducted under emergency circumstances restore the pre-disaster design and function of the facility, the repairs are not eligible as Category B, but are eligible as Category F. ○ Rural electric cooperatives, municipal utilities, and public power districts commonly use time and equipment contracts (similar to time-and-materials contracts) for power distribution system repairs. Costs under these contracts are subject to certain criteria. ○ Limited ROW clearance required to access a damaged facility may be eligible.
Chapter 2:V.H, and VII.H.4	**F**	**Restoration** ○ Permanent repair or replacement of any component of system, including buildings, structures, or systems, even if not contiguous. ○ Electrical conductor replacement subject to specific criteria. ○ Inspection or assessment of damaged components of a system. ○ Inspection or assessment of an inaccessible structure or component of a system may be eligible, but only when there is evidence of damage, such as when sunken ground appears above a water pipeline.	○ General post-disaster surveys, inspections, and assessments, such as video inspection of sewer lines.	

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Work Eligibility Considerations: Parks, Recreation, and Other				
EHP laws, regulations, and EOs that commonly apply: NEPA, NHPA, CZMA, CBRA, ESA, CWA, and EOs 11988 and 11990				
Pages	**Category**	**Eligible Work (including, but not limited to):**	**Ineligible Work and Costs**	**Other Considerations**
Chapter 2:VI.B and B.20	**B**	**Emergency protective measures to address an immediate threat** ○ Buttressing, bracing, or shoring. ○ Barricading and safety fencing. ○ Flood protection, such as sandbagging. ○ Temporary, emergency repairs.		
Chapter 2:VII.H.5	**G**	**Restoration – Permanent repair or replacement** ○ Restoration of engineered beaches is subject to specific eligibility criteria.	○ Restoration of federally constructed beaches or shoreline protection facilities. ○ Restoration of PNP parks and recreational facilities, including supporting facilities such as roads, buildings, and utilities. ○ Restoration of natural, unimproved features. ○ Replacement of dead trees, shrubs, and other vegetation (unless necessary for slope stabilization, erosion control, minimizing sediment runoff, or restoring the function of the facility). ○ Replacement of destroyed crops; cosmetic or aesthetic vegetation.	

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