

# Public Notice FEMA-4742-DR-TN and Overview of Authorized Assistance

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**Release Date: September 28, 2023**

The Federal Emergency Management Agency (FEMA) hereby gives notice to the public of its intent to provide financial assistance to the State of Tennessee, local and tribal governments, and private nonprofit organizations under major disaster declaration FEMA-4742-DR-TN. This notice applies to the Public Assistance (PA) program and the Hazard Mitigation Grant Program (HMGP) implemented under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. §§ 5121-5207 (Stafford Act). This Public Notice concerns activities that may affect historic properties, activities that are located in or affect wetland areas and the 100-year floodplain, and activities that may involve critical actions within the 500-year floodplain. Such activities may adversely affect the historic property, floodplain or wetland, or may result in continuing vulnerability to flood damage.

## **I. Public Notice – Major Disaster Declaration FEMA-4742-DR-TN and Overview of Authorized Assistance**

The president declared a major disaster for the State of Tennessee on September 27, 2023, as a result of severe storms, straight-line winds, and tornado pursuant to his authority under the Stafford Act. This declaration authorizes FEMA to provide reimbursement or direct federal assistance to eligible state, local, tribal, and certain private nonprofit organizations. Under FEMA's Public Assistance program, authorized by Sections 403, 406, 407 and 428 of the Stafford Act, applicants in Bledsoe, Coffee, Cumberland, Jefferson, Knox, Loudon, Meigs, Rhea, Roane, and Van Buren counties may request reimbursement for emergency and permanent work, defined as Categories A through G. Eligible applicants in those ten counties may also request direct federal assistance. This will be the only public notice concerning these actions.

The Hazard Mitigation Grant Program (HMGP) will be available statewide. Additional designations may be made at a later date if requested by the state and warranted by the results of further damage assessments.



## **II. Public Notice – Financial Assistance for Activities that Affect Historic Properties, or are Located in or Affect Wetland Areas or Floodplains**

Some of the activities for which FEMA provides financial assistance under the Public Assistance program and Hazard Mitigation Grant Program may affect historic properties, may be located in or affect wetland areas or the 100-year floodplain, and may involve critical actions within the 500-year floodplain. In accordance with all requirements of the National Environmental Policy Act (NEPA), all federal actions must be reviewed and evaluated for feasible alternatives. FEMA must also comply with Executive Order 11988, Floodplain Management; Executive Order 11990, Protection of Wetlands; the National Historic Preservation Act of 1966, Pub. L. No. 89-655 (1966) (codified as amended at 16 U.S.C. § 470 et seq.) (NHPA); and the implementing regulations at 44 C.F.R. pt. 9 and 36 C.F.R. pt. 800. The Executive Orders, NHPA and regulations require FEMA to provide public notice for certain activities as part of approving the award of financial assistance for specific projects.

### **A. Federal Actions in or Affecting Floodplains and Wetlands**

FEMA has determined that for certain types of facilities there are normally no alternatives to restoration in the floodplain or wetland. These are facilities that meet all of the following criteria: 1) FEMA's estimate of the cost of repairs is less than 50% of the cost to replace the entire facility and is less than \$100,000; 2) the facility is not located in a floodway; 3) the facility has not sustained major structural damage in a previous presidentially declared flooding disaster or emergency; and 4) the facility is not critical (e.g., the facility is not a hospital, generating plant, emergency operations center, or a facility that contains dangerous materials). FEMA intends to provide assistance for the restoration of these facilities to their pre-disaster condition, except those certain measures to mitigate the effect of future flooding or other hazards, which may be included in the work. For example, a bridge or culvert restoration may include a larger waterway opening to decrease the risk of future washouts.

For routine activities, this will be the only public notice provided. Other activities and those involving facilities that do not meet the four criteria are required to undergo more detailed review, including the study of alternate locations. Subsequent public notices regarding such projects will be published, if necessary, as more specific information becomes available.



In many cases, an applicant may have started facility restoration before federal involvement. Even if the facility must undergo detailed review and analysis of alternate locations, FEMA will fund eligible restoration at the original location if the facility is functionally dependent on its floodplain location (e.g., bridges and flood-control facilities), or the project facilitates an open space use, or the facility is an integral part of a larger network that is impractical or uneconomical to relocate, such as a road. In such cases, FEMA must also examine the possible effects of not restoring the facility, minimizing floodplain or wetland impacts, and determining both that an overriding public need for the facility clearly outweighs the Executive Order requirements to avoid the floodplain or wetland, and that the site selected is the only practicable alternative. The state and local officials will confirm to FEMA that proposed actions comply with all applicable federal, state and local floodplain management and wetland protection requirements.

The Public Assistance (PA) Federal Flood Risk Management Standard (FFRMS) partial implementation policy, effective for all major disasters declared on or after June 3, 2022, applies to PA projects in the 1% annual chance floodplain (1% and 0.2% annual chance floodplains for critical actions). These PA projects also involve new construction of structures, structures that have a substantial damage determination, or structures that require substantial improvement. The policy applies regardless of the cause of damage. The Hazard Mitigation Assistance (HMA) Federal Flood Risk Management Standard partial implementation policy applies to non-critical actions involving structure elevation, dry floodproofing, and mitigation reconstruction in the 1% annual chance floodplain. For all FEMA programs and project types, if a state, local, tribal or territorial government has its own higher elevation standard, FEMA requires use of the higher standard. FEMA program policies also reference additional consensus codes and standards, such as ASCE-24-14, that incorporate additional elevation requirements beyond the base flood elevation.

## **B. Federal Actions Affecting Historic Properties**

Section 106 of the National Historic Preservation Act of 1966 (NHPA) requires FEMA to consider the effects of its activities (known as undertakings) on any historic property and to afford the Advisory Council on Historic Preservation (ACHP) an opportunity to comment on such projects before the expenditure of any federal funds. A Public Assistance or Hazard Mitigation Grant Program activity is an “undertaking” for the purposes of the NHPA, and a historic property is any



property that is included in, or eligible for inclusion in, the National Register of Historic Places (NRHP). Those actions or activities affecting buildings, structures, districts or objects 45 years or older or that affect archaeological sites or undisturbed ground will require further review to determine if the property is eligible for listing on the NRHP. For historic properties that will not be adversely affected by FEMA's undertaking, this will be the only public notice. FEMA may provide additional public notices if a proposed FEMA undertaking would adversely affect a historic property.

### **III. Further Information or Comment**

The Rehabilitation Act of 1973 protects the civil rights of persons with disabilities. It prohibits discrimination on the basis of disability by the federal government, federal contractors, and by recipients of federal financial assistance. Any recipient or sub-recipient of federal funds is required to make their programs accessible to individuals with disabilities. Its protections apply to all programs and businesses that receive any federal funds. This applies to all elements of physical/architectural, programmatic and communication accessibility in all services and activities conducted by or funded by FEMA. FEMA intends to comply with the Rehabilitation Act in all federally conducted and assisted programs in alignment with the principals of whole community inclusion and universal accessibility.

Executive Orders 13985 and 14008 further address the need to achieve environmental justice and equity across the federal government. The issuance of the new executive orders more than 20 years after Executive Order 12898 was signed indicates the administration's directive to federal agencies to renew their energy, effort, resources and attention to environmental justice. FEMA is working with applicants/sub-applicants to identify communities with environmental justice concerns and provide an avenue for local groups and nonprofits with an environmental justice mission to self-identify so FEMA programs can start to work with them on specific projects from the beginning of the application process.

FEMA also intends to provide HMGP funding to the State of Tennessee to mitigate future disaster damage. These projects may include construction of new facilities, modification of existing, undamaged facilities, relocation of facilities out of floodplains, demolition of structures, or other types of projects to mitigate future disaster damage. In the course of developing project proposals, subsequent public



notices will be published, if necessary, as more specific information becomes available.

This may be the only public notice regarding the actions described above for which FEMA may provide financial assistance under the Public Assistance program or Hazard Mitigation Grant Program. Interested persons may obtain information about these actions or a specific project by writing to the Federal Emergency Management Agency Region IV - 3005 Chamblee Tucker Rd., Atlanta, GA 30341-4112 or send an email to [FEMA-R4EHP@fema.dhs.gov](mailto:FEMA-R4EHP@fema.dhs.gov). Please include in the subject line of the email "DR 4742-TN EHAD". Comments should be sent in writing to the above address within 30 days of the date of this notice.



**FEMA**

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