



## Disaster Recovery Reform Act Public Assistance Program Amendments

On October 5, 2018, the President signed the Disaster Recovery Reform Act (DRRA) of 2018 into law as part of the Federal Aviation Administration Reauthorization Act of 2018. This Fact Sheet describes several changes that have been made, as required by DRRA, to the Public Assistance (PA) Program under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act). FEMA is implementing these amendments below immediately, pursuant to the following effective dates in the law:

- The amendments on eliminating the PA funding reduction for Alternate Projects; Public Assistance Alternative Procedures (PAAP); and eligibility of private non-profit (PNP) food banks are effective for major disasters and emergencies declared on or after August 1, 2017.
- The amendment on eligibility of PNP center-based childcare services is effective for major disasters and emergencies declared on or after October 5, 2018.

This Fact Sheet serves as an amendment to Version 3.1 of the *Public Assistance Program and Policy Guide* (PAPPG) (FP 104-009-02/April 2018) and the applicable Public Assistance Alternative Procedures (PAAP) Pilot Program Guide for Permanent Work. Aside from these specific changes, all other requirements in the PAPPG and applicable PAAP Guide continue to apply.

### **Alternate Projects – Elimination of Funding Reduction (Section 1207(a))**

When Applicants do not restore the function of a disaster damaged facility and instead conduct an Alternate Project, FEMA caps Federal funding for that project based on the eligible restoration costs. Prior to DRRA, FEMA reduced Federal funding by 10 percent of the Federal share of the estimate to restore the original facility (25 percent for PNP entities) except when Applicants opted into the PAAP Pilot Program for Permanent Work.

DRRA Section 1207(a) amends Stafford Act Section 406(c), eliminating these reductions for Alternate Projects under major disasters and emergencies declared on or after August 1, 2017. As a result, the reductions in Chapter 2.VII.G.2 of the PAPPG and the elimination of the Alternate Project in the PAAP Guide are no longer applicable.

### **Alternative Procedures – Participation (Section 1207(c))**

DRRA Section 1207(c) amends Stafford Act Section 428(d) by stating that the provision of Federal assistance cannot be based on a requirement of participation in PAAP. This reinforces current law and policy that use of PAAP is voluntary and optional for each Applicant.

### **Alternative Procedures – Cost Estimates (Section 1207(d))**

FEMA accepts Applicant-submitted estimates that comply with the criteria in Chapter 3.II.D. of the PAPPG. FEMA evaluates the eligibility and reasonableness of Applicant-submitted cost estimates using the *Public Assistance: Reasonable Cost Evaluation Job Aid*.

DRRA Section 1207(d) amends Stafford Act Section 428(e)(1) to create a presumption that FEMA-accepted fixed cost estimates which are certified by a professionally licensed engineer are reasonable and eligible costs. The cost estimate will be limited to those costs necessary to restore the facility to pre-disaster condition, plus additional eligible costs, such as approved cost-effective hazard mitigation measures and applicable codes and standards pursuant to 44 CFR 206.226(d). Once FEMA and the Applicant agree to a fixed-cost on a PAAP Permanent Work project, FEMA will not adjust Federal funding on the basis of reasonableness or eligibility provided the Applicant completes the approved scope of work. This does not preclude de-obligations on the basis of non-compliance with grant conditions, such as environmental or historic preservation; duplication of benefits, including insurance; or evidence of fraud.

### **Private Nonprofit Food Banks (Section 1214)**

Although PNP food banks were previously eligible, eligibility was restricted to facilities that distributed food to the public. DRRA Section 1214 amends Stafford Act Section 102(11)(B) to include facilities that collect, store and distribute food to food banks as eligible applicants.

### **Private Nonprofit Center-based Childcare Services (Section 1238(b))**

DRRA Section 1238(b) amends Stafford Act Section 102(11)(A) to include center-based, childcare facilities under the definition of PNP facility. Although PNP childcare facilities were previously eligible, this amendment specifically defines center-based childcare services as eligible PNP services.

## **RETROACTIVE IMPLEMENTATION OF PUBLIC ASSISTANCE AMENDMENTS**

Pursuant to DRRA, these amendments were immediately effective. DRRA also included a retroactive effective date for several of the provisions. FEMA will implement those amendments as follows:

### **Alternate Projects**

This amendment is effective for major disasters and emergencies declared on or after August 1, 2017. For retroactive implementation of this change for declarations issued prior to the issuance of this Fact Sheet:

- If the Alternate Project is not yet obligated, FEMA will obligate 100 percent of the eligible Federal share, subject to the approval of a scope of work for use of all the funds.
- If FEMA has obligated the Alternate Project, the Applicant must request the additional funding resulting from the elimination of the reduction and submit a new scope of work, if necessary, to include any supplemental work that will be financed with the extra funding.

### **Alternative Procedures**

The amendments on PAAP and cost estimates are effective for major disasters and emergencies declared on or after August 1, 2017. They apply to participation in PA

Alternative Procedures and the acceptance of Applicant-provided estimates for all major disasters and emergencies declared on or after that date.

## **Private Non-Profits**

The amendment for private non-profit food banks is effective for major disasters and emergencies declared on or after August 1, 2017, and the amendment for private non-profit child care facilities is effective for major disasters and emergencies declared on or after October 5, 2018.

While the amendments make such PNPs eligible for PA funding, under the Stafford Act they are defined as non-critical social services. As such, any applicable PNP seeking Permanent Work funding must first apply for a disaster loan from the Small Business Administration (SBA). However, for eligible Emergency Work the PNP may apply directly to FEMA. If a newly-eligible PNP wishes to seek PA funding, it must submit a Request for Public Assistance (RPA). Generally, the deadline to submit an RPA to FEMA is within 30 days of the respective area being identified in the declaration for the event. Potential PNP Applicants who have not yet submitted an RPA should contact their State (or applicable) emergency management agency for information on any applicable RPA submission deadlines. For RPA submission deadlines that closed prior to publication of this fact sheet, the State may request that FEMA re-open the RPA period for a reasonable timeframe to allow affected PNPs to apply.