



Public Assistance Program and Policy Guide

Version 5, DRAFT

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FEMA

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1 **Foreword**

2 *Information will be added prior to publishing.*

3 **List of Changes and Clarifications Grouped by General Topic**

4 **Administrative**

5 *Information will be added prior to publishing.*

6 **Policy and Guidance Documents Incorporated and Superseded**

7 *Information will be added prior to publishing.*

8 **Guidance Documents Summarized and Referenced**

9 *Information will be added prior to publishing.*

10 Introduction

11 Document Scope, Purpose, and Use

12 The Federal Emergency Management Agency’s (FEMA’s) Public Assistance Program Policy Guide (PAPPG)
13 contains consolidated Public Assistance (PA) Program policies and procedural requirements for the entire
14 program delivery life cycle. The PAPPG provides comprehensive PA policy to use when evaluating eligibility.
15 The PAPPG references and provides weblinks to other FEMA policies and documents such as standard
16 operating procedures and job aids that provide detailed instructions for individuals involved with
17 implementing each of the various steps.

18 Applicability

19 FEMA applies Version 5 of the PAPPG to incidents declared on or after *[Date will be added prior to*
20 *publishing]*. Individuals who have responsibilities managing, implementing, or pertaining to the PA Program
21 should refer to the PAPPG for PA policy and regulatory procedural requirements.

22 Document Management and Maintenance

23 FEMA generally publishes proposed PA policy language for public comment prior to publishing in the
24 PAPPG.¹ When the policy is deemed economically significant,² FEMA generally publishes it in the Federal
25 Register. FEMA conducts a comprehensive review of this publication no less than every three years. All
26 recommendations for the PAPPG can be sent to FEMA-Recovery-PA-Policy@fema.dhs.gov.

27 Public Assistance Program Overview

28 The mission of FEMA’s PA Program is to provide assistance to State, local, Territorial, or Tribal (SLTT)
29 governments, and certain types of private nonprofit (PNP) organizations so that communities can quickly
30 respond to and recover from major disasters or emergencies declared by the President. Through the PA
31 Program, FEMA provides supplemental federal grant assistance for debris removal, emergency protective
32 measures, and the restoration of disaster-damaged, publicly owned facilities and specific facilities of certain
33 PNP organizations. The PA Program also encourages protection of these damaged facilities from future
34 incidents by providing assistance for hazard mitigation measures. FEMA provides this assistance based on
35 the authority granted in statutes, executive orders (EOs), regulations, and policies. The PA Program
36 references including EOs, policies, and environmental protection and historic preservation laws are available
37 in References and Resources.

¹ Stafford Act § 325, 42 U.S.C. § 5165c.

² Executive Order (EO) 12866, “Regulatory Planning and Review.” A significant regulatory action that is likely to result in a rule that may have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or state, local or tribal governments or communities.

38 Authorities

39 FEMA provides assistance based on authorities defined in statutes and regulations. These authorities
40 specify requirements that must be met.

41 Statutes

42 Statutes are federal laws passed by the U.S. Congress and signed by the President. All PA Program
43 assistance must comply with all applicable statutes. The Robert T. Stafford Disaster Relief and Emergency
44 Assistance Act, as amended (Stafford Act), Title 42 of the United States Code (U.S.C.) § 5121 et seq.
45 authorizes FEMA to provide assistance under the PA Program.

46 STAFFORD ACT

47 Stafford Act sections that apply to the assistance FEMA provides under the PA Program include:

- 48 ▪ Title I – Findings, Declarations and Definitions
- 49 ▪ Title III – Major Disaster and Emergency Assistance Administration
 - 50 ○ Sec. 308. Nondiscrimination in Disaster Assistance
 - 51 ○ Sec. 311. Insurance
 - 52 ○ Sec. 312. Duplication of Benefits
 - 53 ○ Sec. 316. Protection of Environment
 - 54 ○ Sec. 323. Minimum Standards for Public and Private Structures
 - 55 ○ Sec. 324. Management Costs
- 56 ▪ Title IV – Major Disaster Assistance Programs (applies to Major Disaster Declarations)
 - 57 ○ Sec. 403. Essential Assistance
 - 58 ○ Sec. 406. Repair, Restoration, and Replacement of Damaged Facilities
 - 59 ○ Sec. 407. Debris Removal
 - 60 ○ Sec. 422. Simplified Procedures
 - 61 ○ Sec. 428. Public Assistance Program Alternative Procedures
 - 62 – Section 428 of the Stafford Act authorizes FEMA to provide specific exceptions, or “Alternative
63 Procedures,” to PA Program regulations.³ FEMA is currently piloting these Alternative Procedures
64 as optional procedures. These procedures are available to each applicant on a voluntary basis.
65 The specific alternatives are presented throughout this document, where applicable.
- 66 ▪ Title V – Emergency Assistance Programs (applies to Emergency Declarations)
 - 67 ○ Sec. 502. Federal Emergency Assistance
- 68 ▪ Title VII – Miscellaneous
 - 69 ○ Sec. 705. Disaster Grant Closeout Procedures

70 OTHER STATUTES

- 71 ▪ Americans with Disabilities Act of 1990
- 72 ▪ Sections 504 and 508 of the Rehabilitation Act of 1973

³ 42 U.S.C. § 5189f.

- 73 ▪ Civil Rights Act of 1964
- 74 ▪ Federally Recognized Tribe List Act of 1994
- 75 ▪ Environmental and Historic Preservation Acts
- 76 ▪ Payment Integrity Information Act of 2019
- 77 ▪ Federally Recognized Tribe List Act of 1994
- 78 ▪ Fair Labor Standards Act

79 Regulations are federal rules with the force and effect of law that implement a
80 statute based on a federal agency’s interpretation of that statute.⁴ FEMA and
81 any entity receiving PA assistance must comply with all applicable federal
82 regulations.⁵

83 **TITLE 44 OF THE CODE OF FEDERAL REGULATIONS**

84 FEMA published PA Program rules in the following parts of Title 44 of the Code
85 of Federal Regulations (C.F.R.), Emergency Management and Assistance:⁶

- 86 ▪ Part 206 Subpart G, Public Assistance Project Administration;
- 87 ▪ Part 206 Subpart H, Public Assistance Eligibility; and
- 88 ▪ Part 206 Subpart I, Public Assistance Insurance Requirements.

89 Additional regulations that must be adhered to when receiving funding through
90 the PA Program:

- 91 ▪ Part 7 Subpart A, Nondiscrimination in FEMA-Assisted Programs – General
- 92 ▪ Part 7 Subpart E, Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal
93 Financial Assistance from FEMA
- 94 ▪ Part 9, Floodplain Management and Protection of Wetlands
- 95 ▪ Part 201, Mitigation Planning
- 96 ▪ Part 204, Fire Management Assistance Grant (FMAG) Program
- 97 ▪ Part 206, Federal Disaster Assistance

98 **TITLE 2 OF THE CODE OF FEDERAL REGULATIONS**

99 The Office of Management and Budget published 2 C.F.R. Part 200, Uniform Administrative Requirements,
100 Cost Principles, and Audit Requirements for Federal Awards to establish uniform rules for federal awards,
101 including but not limited to:

- 102 ▪ Subpart C – Pre-Federal Award Requirements and Contents of Federal Awards
- 103 ▪ Subpart E – Cost Principles
- 104 ▪ Subpart F – Audit requirements
- 105 ▪ Subpart D – Post Federal Award Requirements

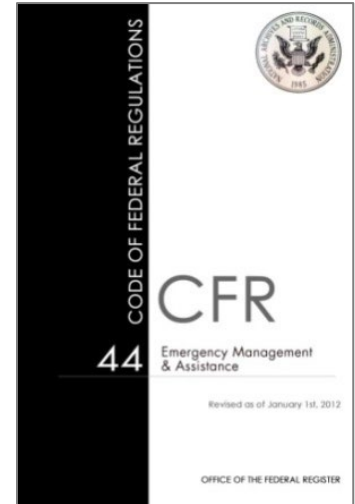


Figure 1. 44 C.F.R.

⁴ Stafford Act § 321, 42 U.S.C. § 5164.

⁵ 44 C.F.R. § 206.200(b). The electronic version of the C.F.R. is available at www.ecfr.gov.

⁶ Stafford Act § 325, 42 U.S.C. § 5165c; 44 C.F.R. § 1.4.

- 106 ▪ Appendix II - Contract provisions for non-federal entity contract under federal awards, and

107 **APPENDIX VI - PA COST ALLOCATION PLANS AND OTHER CODE OF FEDERAL REGULATIONS**

- 108 ▪ 7 C.F.R. § 1730.25, Corrective action (Rural Utilities Service [RUS] borrowers only)
- 109 ▪ 15 C.F.R. Part 774, The Commerce Control List
- 110 ▪ 22 C.F.R. Part 121, The United States Munitions List
- 111 ▪ 40 C.F.R. Part 261, Identification and Listing of Hazardous Waste
- 112 ▪ 40 C.F.R. Parts 1500–1508, NEPA Regulations
- 113 ▪ 48 C.F.R. Subpart 2.1, Federal Acquisition Regulation

114 **Policy**

115 FEMA issues policy to articulate the Agency’s intent and direction in applying statutory and regulatory
116 authority to achieve desired outcomes. The purpose of the PAPPG is to define FEMA’s PA Program policy and
117 procedural requirements. Separate FEMA policies and guidance documents that apply to the PA Program are
118 referenced in the PAPPG where applicable and listed in the References and Resources section. PA funding
119 must comply with these requirements. Only the Associate Administrator of Recovery at FEMA Headquarters
120 has the authority to modify or waive PA policy.

121 **Public Assistance Web-based Grants System**

122 FEMA uses web-based systems to ensure transparency and maintain project information. Recipients and
123 applicants use PA Grants Portal to submit all documentation and information to FEMA, review all aspects of
124 PA project applications, and track the status of PA project applications. FEMA uses PA Grants Manager to
125 review RPAs, develop and review all aspects of a project application, track the status of project application
126 development, and receive information from recipients and applicants.

127 Chapter 1: Declarations and Planning

128 The Stafford Act authorizes the President to provide federal assistance when the magnitude of an incident or
129 threatened incident exceeds the affected state,⁷ local,⁸ tribal,⁹ and territorial government capabilities to
130 respond or recover. This chapter explains requirements for activities that occur during the Operational
131 Planning and Response phase, including damage assessments, declaration requests and FEMA's evaluation
132 criteria, the contents of the declaration, and the initial administrative requirements for a state, tribal, or
133 territorial (STT) government to receive assistance.

134 Damage Assessments

135 When an STT government determines that an incident may exceed its capabilities to respond, it requests a
136 joint Preliminary Damage Assessment (PDA) with FEMA.¹⁰ FEMA expects the STT government to conduct an
137 initial damage assessment prior to requesting a joint PDA to validate the need for federal assistance. The
138 STT's initial damage assessment should identify impacted jurisdictions, infrastructure damaged, and
139 preliminary estimated costs to respond to and recover from the incident. The STT also gathers data to
140 determine the need for federal assistance such as the capacity of local resources to support the response
141 and recovery efforts.

142 During a PDA, FEMA, SLTTs, and certain PNP organization officials work together to estimate and document
143 the impact and magnitude of the incident.¹¹ Accurate and comprehensive PDAs are critical to enabling
144 efficient response and recovery. FEMA's [Preliminary Damage Assessment Guide](#) provides detailed
145 information to assist staff involved with damage assessments and describes how FEMA utilizes the
146 information when preparing requests for Major Disaster Declarations. For example, Applicants must provide
147 insurance policies when requested during a PDA as FEMA can only consider costs that would be eligible in its
148 declaration determination.

⁷ Stafford Act § 102(4), 42 U.S.C. § 5122; 44 C.F.R. § 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. Hereinafter referred to as state or territorial governments

⁸ Stafford Act § 102(8), 42 U.S.C. § 5122; 44 C.F.R. § 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.

⁹ Stafford Act § 102(6), 42 U.S.C. § 5122; 44 C.F.R. § 206.201(h), a tribal government is any Indian or Alaska Native tribe, band, nation, pueblo, village, or community listed as a tribe under the Federally Recognized Indian Tribe List Act of 1994, (25 U.S.C. 479a et seq.). See annually published Bureau of Indian Affairs list of Indian Entities Recognized and Eligible to Receive Services. Hereinafter referred to as tribal government.

¹⁰ 44 C.F.R. § 206.33(a).

¹¹ 44 C.F.R. § 206.33(b).

149 Terminology: Recipients, Subrecipients, and Applicants

150 When an entity applies for PA funding, it is the **applicant**. Once the applicant receives funding, it is
 151 either the **recipient** or a **subrecipient**. For simplicity, FEMA uses the term applicant throughout this
 152 document when referring to the responsible entity for a project rather than making distinctions
 153 between an entity as the applicant, recipient or subrecipient. FEMA uses the terms recipient and
 154 subrecipient when necessary to differentiate between the two entities.

155 Declaration Request

156 The Governor¹² or Tribal Chief Executive¹³ may request a declaration from the President through FEMA.¹⁴ A
 157 tribal government may elect to be a recipient¹⁵ or a subrecipient¹⁶ under a state or territorial declaration or
 158 request its own declaration as a recipient. A tribal government may also receive one type of assistance
 159 under a state or territorial declaration and another type of assistance under its own declaration, provided
 160 there is no duplication of benefits. The Governor, and/or the Tribal Chief Executive if the tribal government
 161 wishes to be its own recipient, must submit the request no later than 30 days after the incident occurs.
 162 FEMA may extend the deadline if the Governor or Tribal Chief Executive submits a written time extension
 163 request within 30 days of the incident, stipulating the reason for the delay.¹⁷ When a severe or catastrophic
 164 incident occurs, the Governor or Tribal Chief Executive may submit a declaration request prior to completion
 165 of the PDA.¹⁸ This process is referred to as an expedited declaration request. In such circumstances
 166 assistance is limited to that which would address immediate needs (lifesaving or life-sustaining items) based
 167 on rapid assessments until the PDA is completed.

168 Declaration Evaluation

169 FEMA uses PDA information to evaluate the need for assistance under the PA Program as follows:

- 170 ■ For Emergency Declarations, FEMA evaluates whether available resources and authorities are adequate
 171 and whether federal assistance under Section 502 of the Stafford Act is necessary to supplement SLTT
 172 efforts to save lives, protect property, and public health and safety, or to lessen or avert the threat of a
 173 catastrophe.¹⁹

¹² Stafford Act § 102(5), 42 U.S.C. § 5122; 44 C.F.R. § 206.2(12).

¹³ Stafford Act § 102(12), 42 U.S.C. § 5122.

¹⁴ Stafford Act §§ 401 and 501, 42 U.S.C. §§ 5170 and 5191; 44 C.F.R. §§ 206.35 and 206.36. Information and forms for declaration requests are available at: www.fema.gov/media-library/assets/documents/28122, and for tribal governments specifically, at: www.fema.gov/tribal-declarations-pilot-guidance.

¹⁵ 44 C.F.R. § 200.201. Recipient is the entity that receives the federal award directly from FEMA.

¹⁶ 44 C.F.R. § 200.201 Subrecipients are applicants that receives subawards from the recipient to carry out a project.

¹⁷ 44 C.F.R. §§ 206.35(a) and 206.36(a).

¹⁸ 44 C.F.R. § 206.33(d).

¹⁹ 44 C.F.R. § 206.37(c)2.

174 ▪ For Major Disaster Declarations, FEMA reviews facility impacts and cost information to ensure the
175 estimated amounts do not include costs for ineligible items, costs covered by insurance, or costs related
176 to administration, management, engineering, code or standard upgrades, resiliency/mitigation
177 measures, or facilities under authority of another federal agency. FEMA evaluates the estimated cost of
178 assistance and other factors when making a recommendation to the President for whether assistance is
179 warranted.²⁰ The factors for state and territorial governments differ from tribal government factors.
180 FEMA will only provide authorization for snow assistance under a major disaster declaration. Requests
181 for snow assistance must be submitted with a Winter Storm or Snowstorm declaration request.
182 Additional information is available in Appendix D: *Snow Assistance*.

183 **State and Territorial Governments**

184 For state and territorial governments, FEMA's evaluation for a Major Disaster Declaration is based on six
185 primary factors:

- 186 ▪ Estimated cost of assistance
- 187 ▪ Localized impacts
- 188 ▪ Existing insurance coverage
- 189 ▪ Previous mitigation efforts
- 190 ▪ Recent multiple disasters
- 191 ▪ Other federal agency programs

192 FEMA compares the estimated eligible amounts to the established annual per capita indicators. To account
193 for localized impacts when the statewide per capita impact is low, FEMA evaluates whether there are
194 extraordinary concentrations of damage resulting in significantly high per capita impacts at the local
195 government level.

196 To encourage hazard mitigation, FEMA considers whether SLTT government mitigation measures taken prior
197 to the incident likely reduced the damage impacts, especially if such mitigation averted damage that would
198 have increased the estimated eligible cost above the per capita indicator.

199 Understanding that the effects of multiple disasters in a confined period of time can affect response and
200 recovery capabilities, FEMA also evaluates the overall impacts of federal and STT declarations that have
201 occurred within the past 12 months and the extent to which the STT government has spent its own funds. If
202 there were disasters prior to the 12-month period that still have substantial impacts on SLTT governments,
203 FEMA also considers impacts from these disasters.

204 **Tribal Governments**

205 Absent extraordinary circumstances, FEMA will consider a declaration request from a tribal government only
206 if it is determined that the tribal government sustained at least \$250,000 in PA-eligible estimated damage

²⁰ 44 C.F.R. § 206.48(a).

207 or costs. FEMA evaluates tribal government requests for a Major Disaster Declaration based on the following
208 factors:

- 209 ▪ Types and amounts of damage;
- 210 ▪ Economic impact of the incident;
- 211 ▪ Tribal government resources;
- 212 ▪ Demographics;
- 213 ▪ 24-month disaster history;
- 214 ▪ Previous mitigation efforts;
- 215 ▪ Other federal agency programs.
- 216 ▪ Insurance;
- 217 ▪ Unique conditions that affect Tribal governments; and
- 218 ▪ Other relevant information.

219 Additional detail is provided in the Tribal Declaration Pilot Guidance.²¹

220 Declaration Determinations

221 For FEMA to provide assistance, the President must declare that an emergency or major disaster exists. The
222 declaration²² establishes the:

- 223 ▪ Type of incident;
- 224 ▪ Incident period;
- 225 ▪ Designated areas;
- 226 ▪ Types of assistance;
- 227 ▪ Federal cost share; and
- 228 ▪ Federal Coordinating Officer (FCO)

229 Type of Incident

230 The declaration designates the type of incident (e.g., hurricane, wildfire, or earthquake). For Emergency
231 Declarations, an incident is any instance that the President determines warrants supplemental emergency
232 assistance to save lives and protect property and public health and safety, or to lessen or avert the threat of
233 a catastrophe.²³ For Major Disaster Declarations, an incident is any natural catastrophe (including any
234 hurricane, tornado, storm, high water, wind driven water, tidal wave, tsunami, earthquake, volcanic eruption,
235 landslide, mudslide, snowstorm, or drought) or, regardless of cause, any fire, flood, or explosion.²⁴ Major
236 Disaster Declarations may include a combination of incident types, such as storms and landslides.

²¹ www.fema.gov/tribal-declarations-pilot-guidance.

²² Each Presidential declaration is available at www.fema.gov/disaster.

²³ Stafford Act § 102(1), 42 U.S.C. § 5122; 44 C.F.R. §§ 206.2(a)(9) and 206.35.

²⁴ Stafford Act § 102(2), 42 U.S.C. § 5122; 44 C.F.R. § 206.2(a)(17).

237 Incident Period

238 The declaration designates the incident period. The incident period is the span of time during which the
239 federally declared incident occurred.²⁵ This period varies in duration, depending on the incident. The
240 declaration includes an incident start date and typically includes an end date to the incident period. In some
241 cases, the end date may be designated as “continuing.”

242 Designated Areas

243 The declaration designates which areas (e.g., county, parish, city, or tribe) are eligible to receive federal
244 assistance (hereinafter referred to as “declared area”).²⁶ FEMA may add additional areas after the initial
245 designation. However, for FEMA to consider adding an additional area, the Governor or Governor’s
246 Authorized Representative (GAR)²⁷ or, for Tribal declarations, the Tribal Chief Executive or Tribal Authorized
247 Representative (TAR), must request the addition within 30 days of the declaration date or the end of the
248 incident period, whichever is later. FEMA may extend the deadline if the Governor, GAR, Tribal Chief
249 Executive, or TAR submits a written time extension request within the 30-day deadline with justification of
250 the inability to meet the deadline.²⁸

251 Types of Assistance

252 The declaration designates the types of federal assistance authorized.²⁹ The types of assistance authorized
253 differs between Emergency and Major Disaster Declarations and may vary among declared areas. For
254 Emergency Declarations, the President may authorize limited immediate and short-term assistance essential
255 to save lives, protect property, and public health and safety, or to lessen or avert the threat of catastrophe.³⁰
256 For major disaster declarations, the President may authorize Individual Assistance (IA), PA, and Hazard
257 Mitigation. Through IA’s Individuals and Households Program (IHP), FEMA provides assistance to eligible
258 individuals and households. Through its PA Program, FEMA provides supplemental federal grant assistance
259 to SLTT governments and certain types of PNP organizations for debris removal, emergency protective
260 measures, and the restoration of disaster-damaged, publicly owned facilities and specific facilities of certain
261 PNP organizations. The PA Program encourages protection of these damaged facilities from future incidents,
262 including possible impacts of climate change, by providing assistance for hazard mitigation measures.
263 Additionally, FEMA provides risk management resources to identify, assess, and prioritize possible risk
264 reduction and minimize potential loss of life and property from future disasters through its Hazard Mitigation
265 Grant Program (HMGP).

266 FEMA may add additional types of assistance after the declaration. However, for FEMA to consider adding
267 additional types of assistance, the Governor or GAR or, for tribal declarations, the Tribal Chief Executive or
268 TAR, must request the assistance within 30 days of the declaration date or the end of the incident period,

²⁵ 44 C.F.R. § 206.32(f).

²⁶ 44 C.F.R. §§ 206.2(a)(6) and 206.40(b).

²⁷ 44 C.F.R. §§ 206.2(a)(13) and 206.41(d).

²⁸ 44 C.F.R. § 206.40(c-d).

²⁹ 44 C.F.R. § 206.40(a).

³⁰ 44 C.F.R. § 206.63.

269 whichever is later. FEMA may extend the deadline if the GAR or TAR submits a written time extension request
270 within the 30-day deadline with justification of the inability to meet the deadline.³¹ Tribal governments may
271 receive one type of assistance under a State or Territorial declaration as a subrecipient and another type of
272 assistance under its own declaration as a recipient, provided there is no duplication of benefits.

273 FEMA Regional Administrators (RAs)³² have the authority to issue Fire Management Assistance Grant
274 (FMAG) declarations for wildfires that threaten to cause such destruction that would constitute a major
275 disaster.³³ The FMAG Program is separate and distinct from the PA Program. FMAG declaration criteria,
276 eligibility, and other program information is available at 44 C.F.R. Part 204, Fire Management Assistance
277 Grant Program, and in FEMA's Fire Management Assistance Grant Program and Policy Guide (FP-104-21-
278 0002).³⁴

279 If significant damage occurs as a result of one or more FMAG fire incidents, the Governor or Tribal Chief
280 Executive may subsequently request a Major Disaster Declaration for the fire incident(s). FEMA evaluates
281 such requests based on the damage and costs not covered under the FMAG Program, such as public
282 infrastructure damage. If the Governor or Tribal Chief Executive requests an Emergency or Major Disaster
283 Declaration for a fire incident with no declared FMAG, FEMA includes costs that would have been covered
284 under the FMAG Program when evaluating the declaration request. If the President declares a Major
285 Disaster and authorizes the PA Program, FEMA usually funds all costs related to those fire incidents under
286 the PA Program for efficiency in administration of assistance and to avoid a duplication of benefits between
287 programs.

288 **Federal Cost Share**

289 The assistance FEMA provides through its PA Program is subject to a federal cost share, which means that
290 FEMA provides funding for a portion of the project and the recipient or applicant is responsible for the
291 remaining portion.³⁵ The federal cost share ensures local interest and involvement through financial
292 participation. The federal cost share is not less than 75 percent of the eligible costs.³⁶ FEMA recommends
293 an increase up to 90 percent if actual federal obligations, excluding administrative costs, meet or exceed a
294 qualifying threshold.³⁷

295 For debris removal and emergency protective measures specifically, the federal cost share may be increased
296 in limited circumstances, and for limited periods of time, if warranted.³⁸ See Chapter 6: *Increased Federal*
297 *Cost Share for a Limited Timeframe*, for details on how FEMA applies the increased federal cost share.

³¹ 44 C.F.R. § 206.40(c-d).

³² 44 C.F.R. § 206.2(a)(21).

³³ Stafford Act § 420, 42 U.S.C. § 5187; 44 C.F.R. § 204.

³⁴ Fire Management Assistance Grant (FMAG) program guidance is available at: www.fema.gov/media-library/assets/documents/92379.

³⁵ 44 C.F.R. § 206.203(b).

³⁶ Stafford Act §§ 403(b), 406(b), 407(d), and 503(a), 42 U.S.C. §§ 5170b, 5172, 5173, 5193; 44 C.F.R. §§ 206.47(a) and 206.65.

³⁷ 44 C.F.R. § 206.47(b).

³⁸ 44 C.F.R. § 206.47(d).

298 The applicant may only apply other federal award funds toward the PA non-federal cost share if the other
 299 federal agency has specific statutory authority allowing its funds to be used to meet cost-share
 300 requirements.³⁹ For example, the U.S. Department of Housing and Urban Development’s (HUD’s) Community
 301 Development Block Grant (CDBG) Program may be used for the non-federal cost share on PA projects if
 302 certain requirements are met. FEMA applies the federal cost share at the project level. Therefore, any other
 303 agency’s federal funds must be applied at the project level and may not be used across multiple projects
 304 (except for Permanent Work Alternative Procedure projects as described in Chapter 8: *Capped Projects*).
 305 Further, if the applicant uses funds from another federal agency to meet the non-federal cost share, it must
 306 meet all requirements of the other agency as well as all PA Program requirements. The applicant cannot
 307 apply PA funds toward the non-federal cost share of other federal agency awards. For more information on
 308 how to apply CDBG-DR funds to PA projects see [Implementation Guidance for Use of Community
 309 Development Block Grant Disaster Recovery Funds as Non-Federal Cost Share for the Public Assistance
 310 Program](#).



311 Terminology: Project

312 A **project** is a logical grouping of work required as a result of the declaration. The damage description,
 313 scope of work, and costs are documented in the **project**, which is the basis for PA funding. 44 C.F.R. §
 314 206.201(k).

315 Declaration-Related Appeals

316 If FEMA denies a declaration, types of assistance, or areas, the Governor or Tribal Chief Executive may
 317 submit an appeal through the RA. The appeal and any justification or additional information must be
 318 submitted within 30 days of the denial letter date. If additional time is needed to submit a declaration-
 319 related appeal, a time extension request citing the reason for delay must be submitted within 30 days of the
 320 denial letter. The GAR or TAR may appeal, or request time extensions to appeal, a denial of the types of
 321 assistance or areas. However, only the Governor or Tribal Chief Executive may appeal, or request a time
 322 extension to appeal, a declaration denial. FEMA’s Assistant Administrator for the Recovery Directorate at
 323 FEMA Headquarters may approve time extensions when there is a legitimate reason for the delay.⁴⁰

324 Recipient Administrative Requirements

325 When the Presidential declaration authorizes assistance to SLTT governments and PNP organizations, FEMA
 326 implements the PA Program. The Recipient is responsible for completing an application for assistance and
 327 submitting required documents before FEMA can provide PA funding. This section describes the required
 328 documents. The FEMA *New Recipients of Disaster Grants Guide*⁴¹ provides additional information for new
 329 recipients.

³⁹ Stafford Act § 312, 42 U.S.C. § 5155; 2 C.F.R. § 200.306(b)(5).

⁴⁰ 44 C.F.R. § 206.46.

⁴¹ http://www.fema.gov/sites/default/files/2020-04/new-recipients-of-disaster-grants-guide_2019.pdf

330 **Application for Federal Assistance**

331 The declared State, Territorial, or Tribal government must complete and submit the following Standard
332 Forms (SF) ⁴² before FEMA provides assistance:

- 333 ▪ Application for Federal Assistance (SF-424)
- 334 ▪ Budget Information for Non-Construction Programs (SF-424A)
- 335 ▪ Assurances for Non-Construction Programs (SF-424B)
- 336 ▪ Budget Information for Construction Programs (SF-424C)
- 337 ▪ Assurances for Construction Programs (SF-424D)

338 The SF-424 includes the period of performance (POP) for the PA award (referred to as the prime award). The
339 prime award POP begins on the first day of the incident period and initially extends four years from the
340 declaration date.

341 **FEMA-State/Territory/Tribe Agreement**

342 After every declaration, FEMA and the applicable STT government enter into a FEMA- State/Territory/Tribe
343 Agreement (FSA) that defines the understanding, commitments, and conditions under which FEMA provides
344 assistance. FEMA and the Governor or Tribal Chief Executive must sign this agreement before FEMA provides
345 assistance. If necessary, because of exigent circumstances, FEMA may authorize essential emergency
346 services or housing assistance under IHP while the agreement is in process for signature.⁴³

347 **Recipient-Led Public Assistance**

348 For each Level III incident, PA declarations recipients may choose to lead PA operations (Recipient-Led PA).
349 Level III incidents are those with minimal response needs and moderate damage. In Recipient-Led PA
350 events, recipients lead the following key PA functions in lieu of FEMA:

- 351 ▪ Customer service
- 352 ▪ Site inspections
- 353 ▪ Scoping and costing

354 In addition to any support requested by the recipient, FEMA maintains the following responsibilities:

- 355 ▪ Oversight of the PA operation
- 356 ▪ Quality control reviews
- 357 ▪ Law, regulation, and EO compliance reviews
- 358 ▪ Final eligibility determination and obligation authority

359 FEMA and the recipient discuss whether a Recipient-Led PA operation is appropriate given the recipient's
360 current capacity. These discussions may begin before an incident when the recipient is assessing its
361 capability to lead a future PA operation or after a declaration request. FEMA and the recipient examine the

⁴² 44 C.F.R. § 206.202(e). The SF-424 forms are available at www.grants.gov/web/grants/forms/sf-424-family.html.

⁴³ 44 C.F.R. § 206.44(a).

362 recipient's capacity at the time of the disaster and incident-specific characteristics to determine the
363 feasibility of Recipient-Led PA. Typically, the best candidates for Recipient-Led PA are recipients with the
364 following factors:"

- 365 ▪ Recent disaster experience;
- 366 ▪ Adequate recipient staff or staff augmentation mechanisms;
- 367 ▪ A fiscal accounting system tracks specific projects, withstands audit, and may be used to evaluate
368 appeals; and
- 369 ▪ Established record of meeting deadlines for PA grant management activities.

370 To opt-in to Recipient-Led PA, the RA and the GAR/TAR must enter into an Operational Agreement, as an
371 addendum to the FSA, that delineates roles and responsibilities. After signing the FSA, recipients have 72
372 hours to sign the Operational Agreement. The RA may approve requests to participate in Recipient-Led PA
373 after the 72 hours at its discretion. The [State-Led Public Assistance Guide](#)⁴⁴ provides additional guidance on
374 the processes, resources, and capabilities required.

375 **Payment Management System**

376 FEMA provides PA funding to recipients via the U.S. Department of Health and Human Services (HHS)
377 Payment Management System. Therefore, if an entity is a recipient for the first time, it must request access
378 to the Payment Management System and complete the Direct Deposit Form (SF-1199A) to obtain a FEMA-
379 specific account before FEMA can provide funding.⁴⁵

380 **Administrative Plan**

381 Recipients must have a FEMA-approved Administrative Plan⁴⁶ that describes how it intends to administer the
382 PA Program before FEMA provides PA funding for any project. At a minimum, the annual Administrative Plan
383 must include:

- 384 ▪ The agencies responsible for program administration;
- 385 ▪ Identification of staffing functions, the source of staff to fill the functions, the management and oversight
386 responsibilities of each function; and
- 387 ▪ Procedures for:
 - 388 ○ Notifying potential applicants of the availability of the PA Program;
 - 389 ○ Conducting applicant briefings;
 - 390 ○ Assisting FEMA in determining applicant eligibility;
 - 391 ○ Participating with FEMA in conducting PDAs;
 - 392 ○ Participating with FEMA in establishing PA mitigation requirements;

⁴⁴ <https://www.fema.gov/assistance/public/policy-guidance-fact-sheets/other>.

⁴⁵ The Payment Management System Access Form and the SF-1199A are available at <https://pms.psc.gov/grant-recipients/banking-add-change.html/>.

⁴⁶ 44 CFR § 206.207(b). The Public Assistance forms and templates are available at [Public Assistance Project Templates and Forms | FEMA.gov](#).

- 393 ○ Participating with FEMA in establishing insurance requirements;
- 394 ○ Processing appeals, time extension requests, and other project-related correspondence;
- 395 ○ Complying with equity requirements;
- 396 ○ Complying with Environmental and Historic Preservation (EHP) requirements;
- 397 ○ Complying with PA administrative requirements including, but not limited to, procurement,
- 398 contracting, and closeout;
- 399 ○ Complying with audit requirements;
- 400 ○ Requesting reimbursement or advanced funds; and
- 401 ○ Determining staffing and budgeting requirements for proper management of the PA Program.

402
403 A recipient must submit its Administrative Plan to FEMA on an annual basis. An amendment for each
404 declared incident that occurs within the year is only required if needed to meet current policy guidance or to
405 address the specifics of the new incident. The recipient must incorporate the approved Administrative Plan
406 into its State Tribal or Territory emergency plan.

407 Public Assistance’s simplified procedures streamlines the application for small projects to support rapid
408 recovery for applicants. FEMA’s authority to provide funding for small projects as one lump sum based on an
409 estimate does not require recipients to obligate funding in the same manner. Recipients must expend and
410 account for the Federal award in accordance with its laws and procedures for expending and accounting for
411 the state, tribe or territory’s own funds.⁴⁷

412 **Hazard Mitigation Plan**

413 Hazard mitigation is most effective when implemented under a comprehensive, long-term mitigation plan
414 that considers future conditions. SLTT governments engage in hazard mitigation planning to identify risks
415 and vulnerabilities associated with natural disasters and develop long-term strategies for protecting people
416 and property from future incidents. Recipients must have a FEMA-approved Hazard Mitigation Plan⁴⁸ before
417 FEMA can provide PA funding for any Permanent Work.⁴⁹ A recipient must show in its plan how it intends to
418 reduce risks from natural hazards and climate impacts. Recipients are required to update the plan every 5
419 years.

⁴⁷ 2 CFR § 200.302.

⁴⁸ Additional information about the mitigation plan requirement is available at www.fema.gov/hazard-mitigation-planning.

⁴⁹ 44 C.F.R. § 201.3(c)(1) and (e)(1).

420

Chapter 2: Coordination and Appeal Rights

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FEMA and the Recipient work in partnership to administer the PA Program and provide customer service to

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each Applicant. This chapter defines how FEMA documents its eligibility determinations and explains

423

Applicants' rights to appeal certain decisions by FEMA.

424

PA Eligibility

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The four basic components of PA eligibility are:

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- Applicant

427

- Facility

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- Work

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- Cost

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Figure 2. PA Eligibility Pyramid

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FEMA refers to these components as the building blocks of an

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eligibility pyramid. FEMA evaluates each building block to determine eligibility, starting at the foundation

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(applicant) and working up to cost at the top of the pyramid (see Figure 2. *PA Eligibility Pyramid*).

434

There are two exceptions to the standard eligibility pyramid review process:

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- For SLTT government applicants, evaluating facility eligibility is not a necessary step for debris removal or most emergency protective measures, as described in Chapter 7: *Emergency Work Eligibility*.

436

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- For Private Nonprofit (PNP) organizations, FEMA must determine whether the PNP owns or operates a facility that provides an eligible service in order to determine whether the applicant is eligible (see Chapter 3: *Private Nonprofit Organizations*, for additional information and a pyramid specific to PNP eligibility).

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PA uses a comprehensive process for assessing eligibility for assistance. Eligibility verification involves

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submitting specific information and documentation, as outlined in the PAPPG. In general, FEMA requires the

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“who, what, when, where, why, and how much” for each item claimed. FEMA collaborates closely with the

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recipient and applicant to carefully evaluate determine whether it meets eligibility criteria.

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If an applicant fails to furnish adequate documentation to establish their eligibility, FEMA is unable to grant

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PA funding for the related work. The reimbursement of assistance is guided by legal authorities set forth in

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statutes and regulations, which also specifies obligatory criteria that must be fulfilled. The PAPPG

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underscores the mandatory nature of certain requirements through use of terms like "must" or "required,"

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signifying their legally binding nature. Non-compliance with these stipulations places the applicant's PA

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funding in jeopardy. It is therefore essential for applicants to diligently adhere to these guidelines to ensure

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FEMA's assistance.

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Simplified Procedures

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Section 422 of the Stafford Act allows simplified procedures for small projects. Through this provision FEMA

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is able to support the equitable delivery of assistance to underserved communities and enable the recovery

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of all communities more quickly by reducing administrative burden. This is achieved by allowing applicants to

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submit summary documentation and self-certify rather than providing specific documentation to support

457 eligibility. Applicants must continue to retain all source documentation, including project eligibility records
458 and financial records, for 3 years after the date the recipient submits to FEMA certification of completion of
459 the last small project. The documentation and information required for submission to FEMA and retained by
460 the applicant is provided throughout the PAPPG.

461 **Sampling Procedures**

462 FEMA adopted the Government Accountability Office (GAO) approach to sampling to decrease the
463 documentation burden FEMA places on communities when they request Public Assistance. Sampling is the
464 process of selecting and evaluating a few items in a group to learn something about the whole group or
465 similar, unobserved items. When Applicants have a significant number of documents to support claims for
466 assistance, Applicants may submit a summary of the documentation, and FEMA will select a representative
467 sample to review. Additionally, if an Applicant submits a significant number of damaged sites, in lieu of FEMA
468 inspections at all sites, the Applicant may submit damage information and documentation for FEMA to
469 validate using this sampling methodology. The sampling procedures benefit both small and large projects.
470 For more information about this process please see the [Public Assistance Sampling Procedure](#).

471 **Facilitated Discussions**

472 Most PA projects are free of eligibility disputes; or, if eligibility issues arise, they are quickly resolved. In some
473 cases, eligibility issues may arise from a lack of mutual understanding. Clear, open lines of communication
474 can often resolve misconceptions and provide a path forward. When such discussions reach an impasse, PA
475 staff may offer the opportunity to participate in a facilitated discussion led by a FEMA alternative dispute
476 resolution specialist. These types of informal discussions, led by a trained facilitator, can provide
477 participants with different perspectives, clarity, and possible avenues for resolution.

478 **Requests for Information**

479 Throughout the project application process, if FEMA finds that required documentation has not been
480 submitted, FEMA requests the information or documentation by submitting a Request for Information (RFI).
481 Responses to RFIs are due by the deadline specified in the RFI. FEMA establishes the deadline based on the
482 nature of the request and in consideration of the type and volume of information or documentation
483 requested, with a minimum of 15 days to respond to the RFI. Therefore, the amount of time allowed may
484 vary. If the applicant does not respond within the deadline and does not request and receive FEMA approval
485 for a time extension to submit the requested information, FEMA denies assistance for the applicant, facility,
486 work, or costs for which eligibility is not supported due to the missing information.

487 **Notification of an Ineligibility Determination**

488 When determining that an applicant, facility, work, or cost is ineligible, FEMA provides electronic notice
489 through a Determination Memorandum (DM) or letter that includes:

- 490 ▪ An explanation of what assistance FEMA denied and, as applicable, the amount of assistance denied for
491 each item;
- 492 ▪ The basis for FEMA's denial, including the provisions of law, regulation, or policy that support the
493 determination; and
- 494 ▪ Information regarding the applicant's rights and procedures to appeal.

495 FEMA electronically transmits the letter or DM simultaneously to the recipient and applicant. This serves as
496 the formal notification of FEMA's determination setting forth the applicant's appeal rights.

497 A DM could result from a Validate as You Go (VAYGo) audit finding. For more information about the VAYGo
498 process see Chapter 11: *Recovery of Improper Payments*.

499 **Appeal Rights and Requirements**

500 The applicant may appeal any FEMA determination related to an application for, or the provision of,
501 assistance under the PA Program.⁵⁰ This includes, but is not limited to, eligibility denials pertaining to an
502 applicant, facility, work, or costs, or time extension denials.

503 FEMA provides the applicant with two opportunities to appeal a determination:

- 504 ▪ The applicant must submit the first appeal through the recipient to the RA.⁵¹
- 505 ▪ If the RA partially or fully denies the first appeal, the applicant may submit a second appeal through the
506 recipient to the Assistant Administrator for the Recovery Directorate at FEMA Headquarters.⁵²

507 All appeals must be in writing and submitted electronically. Recipients must submit all appeals to FEMA via
508 Grants Portal. In its appeal, the applicant must include:

- 509 ▪ All relevant documentation supporting its position;
- 510 ▪ The specific funding amount (or amounts if there are multiple issues on appeal) in dispute, as
511 applicable; and
- 512 ▪ Specify the provisions of law, regulation, or policy (applicable to the respective disaster) with which the
513 applicant believes FEMA's determination was inconsistent.⁵³

514 At any point in the appeal process, the applicant may withdraw its appeal by submitting a written request
515 simultaneously to the recipient and FEMA. FEMA sends a written acknowledgment of the withdrawal request
516 simultaneously to the recipient and applicant.

517 **Appeal Deadlines**

518 The applicant must submit an appeal to the recipient within 60 days from the date FEMA transmits an
519 eligibility determination or first appeal decision to the applicant and recipient.⁵⁴ The recipient must forward
520 the appeal with its written recommendation to FEMA within 120 days from the date FEMA transmits its
521 eligibility determination or first appeal decision.⁵⁵ If the respective 60th or 120th day is a Saturday, Sunday,
522 or federal holiday, FEMA accepts it as timely if received by the first business day after the deadline.⁵⁶ If
523 either the applicant or recipient does not meet the respective deadline, FEMA denies the appeal as untimely.

⁵⁰ Stafford Act § 423, 42 U.S.C. § 5189a; 44 C.F.R. § 206.206. FEMA requires applicants to waive appeal rights on Permanent Work Alternative Procedures Projects unless it is related to a cost adjustment made by FEMA after the Fixed-Cost Offer is accepted.

⁵¹ 44 C.F.R. § 206.206(b)(1).

⁵² 44 C.F.R. § 206.206(b)(2)

⁵³ 44 C.F.R. § 206.206(b)(1)(i) and (b)(2)(i).

⁵⁴ 44 C.F.R. § 206.206(b)(1)(ii)(A) and (b)(2)(ii)(A).

⁵⁵ 44 C.F.R. § 206.206(b)(1)(ii)(A) and (b)(2)(ii)(A).

⁵⁶ Federal holidays are defined by the Office of Personnel Management and listed at: <https://www.opm.gov/policy-data-oversight/pay-leave/federal-holidays/>.



Terminology: Administrative Record

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FEMA reviews all available documents and materials relevant to the appeal. FEMA refers to this compilation of documents and materials as the **administrative record**, which may include, but is not limited to, project application (all versions); supporting documentation, including photographs and technical reports; and all written correspondence, including eligibility determinations.

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Appeal Review

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Upon receipt of the appeal, FEMA reviews the appeal content and uses the administrative record and the laws, regulations, and policies applicable to the respective incident to analyze the appeal. FEMA may request additional information via an RFI, submit the appeal to an independent expert or experts for technical review and recommendations, or it may make its decision based on the documentation and information provided at the time of appeal submission.⁵⁷ When reviewing an appeal, FEMA may identify an issue that necessitates sending the appeal back to the prior decision-maker to resolve the issue. In addition, FEMA may identify and review new eligibility issues that were not previously raised or addressed in the prior determination.

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Within 90 days of receiving the appeal, FEMA provides its appeal decision simultaneously to the recipient and applicant.⁵⁸ In cases where FEMA has requested information or technical review, it will issue the response within 90 days of receiving the information (or within 90 days of the expiration of the deadline to respond) or the technical review recommendations.⁵⁹

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If the RA partially or fully denies the first appeal, the applicant may submit a second appeal or request for arbitration through the recipient to the Assistant Administrator for the Recovery Directorate at FEMA Headquarters.⁶⁰

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All second appeal decisions represent the Agency's final administrative decision on the matter.⁶¹ Additionally, if an applicant does not appeal an eligibility determination or first appeal decision by the deadline, the respective decision represents the Agency's final administrative decision.⁶²

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Appeals for Alternative Procedures Projects

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FEMA is piloting Alternative Procedures on Permanent Work Projects.⁶³ Due to the goals, intent, and benefits of the Alternative Procedures, FEMA does not consider appeals on Alternative Procedures Permanent Work Projects (see Chapter 8: *Capped Projects*) unless it is related to a cost adjustment made by FEMA after the Fixed-Cost Offer is accepted (i.e., related to insurance, noncompliance, or an audit). Any disagreement on

⁵⁷ 44 C.F.R. § 206.206(b)(1)(ii) and (iii) and (b)(2)(ii) and (iii).

⁵⁸ 44 C.F.R. § 206.206(b)(1)(ii)(C) and (b)(2)(ii)(C).

⁵⁹ 44 C.F.R. § 206.206(b)(1)(ii) and (iii) and (b)(2)(ii) and (iii).

⁶⁰ 44 C.F.R. § 206.206(b)(2).

⁶¹ 44 C.F.R. § 206.206(c).

⁶² 44 C.F.R. § 206.206(a). When the applicant requests arbitration in lieu of appeal (as described in Chapter 2), the Civilian Board of Contract Appeals (CBCA) decision constitutes the final decision.

⁶³ Stafford Act § 428(e)(1).

552 damage, SOW, or cost must be resolved prior to accepting the fixed-cost offer. Additionally, FEMA does not
553 consider appeals on denials of requests for time extensions to deadlines to accept fixed-cost offers for
554 Alternative Procedures Projects.

555 **Arbitration**

556 An applicant may file a request for arbitration from the Civilian Board of Contract Appeals (CBCA)⁶⁴ in lieu of
557 a second appeal if the:

- 558 ▪ Applicant submitted a first appeal to FEMA by the deadline and FEMA either denied the appeal or did not
559 render a decision within 180 calendar days of receiving the appeal and the applicant withdrew the
560 appeal;
- 561 ▪ Applicant did not submit a second appeal; and
- 562 ▪ Amount in dispute⁶⁵ is greater than \$500,000, or greater than \$100,000 for an applicant requesting
563 assistance in a rural area.⁶⁶

564 An applicant requests arbitration by emailing the recipient, CBCA,⁶⁷ and FEMA simultaneously. The applicant
565 must file a request for arbitration either:

- 566 ▪ Within 60 calendar days from the date FEMA transmits its first appeal decision; or
- 567 ▪ Within 30 calendar days from the date the applicant withdrew the first appeal if it withdrew the appeal
568 due to FEMA not rendering a decision within 180 days of appeal receipt.

569 Applicants may not submit a second appeal after requesting for arbitration.

570 The CBCA arbitrates at no cost to the parties. However, each party is directly responsible for all other
571 expenses it incurs in the arbitration process. This includes, but is not limited to, attorney's fees,
572 representative fees, copying costs, and costs associated with attending hearings. These costs are not
573 eligible for FEMA funding. For more information on the arbitration process, see [FEMA's Public Assistance
574 Arbitration Fact Sheet](#).

⁶⁴ Stafford Act § 423(d), 42 U.S.C. § 5189a; 44 C.F.R. § 206.206(b)(3).

⁶⁵ The amount in dispute is the difference between the amount of financial assistance sought for a PA project, as defined in 44 CFR 206.201(k), and the amount that FEMA has determined to be eligible. See 44 CFR 206.206(a).

⁶⁶ A rural area is a population of less than 200,000 outside an urbanized area which is an area that consists of densely settled territory that contains 50,000 or more people.

⁶⁷ CBCA.gov provides instructions on how to file an arbitration.

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Chapter 3: Applying for Public Assistance & Applicant Eligibility

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This chapter defines the process to request assistance for PA, starting with the Request for Public Assistance (RPA). Information relating to organizations that are able to be PA applicants, requirements to substantiate eligibility, and important steps that take place following a Presidential declaration are provided.

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Applicant Eligibility

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FEMA provides assistance to eligible applicants, which are defined below. As shown in Figure 3. *Applicant Eligibility*, FEMA must first determine whether the Applicant is eligible before evaluating the Applicant's claim. FEMA and the recipient review the RPA to determine whether the Applicant is eligible for assistance.⁶⁸This section provides FEMA's policy on Applicant eligibility.

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More information is available regarding applicant eligibility for entities seeking to apply for PA Program as follows:

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- State, local, Tribal, and Territory Entities - See *Applicant Eligibility: State, local, Tribal, and Territorial Government Entities* for additional information on eligibility criteria.

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- Private Nonprofit Organizations, including Houses of Worship and other faith-based organizations - See *Applicant Eligibility: Private Nonprofit Organizations* for additional information on eligibility criteria.

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Figure 3. Applicant Eligibility

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Applicant Briefing

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As soon as possible following the President's declaration, the Recipient conducts briefings for all potential applicants. The Recipient is responsible for notifying potential applicants of the date, time, and location of the Applicant Briefing.

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Request for Public Assistance

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The RPA⁶⁹ is an application for the PA Program. If an SLTT government entity or PNP wishes to request reimbursement for costs related to damage and impacts from a Presidential declaration, it must submit an RPA to FEMA via PA Grants Portal within 30 days after the respective area is designated.⁷⁰ Recipients must also submit an RPA to be eligible to request funding through the PA Program. Once an RPA is approved, the SLTT government entity or PNP becomes an applicant and is eligible to submit projects to request funding.

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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. The following

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⁶⁸ 44 C.F.R. § 206.207(b)(1)(iii)(C)

⁶⁹ www.fema.gov/assistance/public/apply

⁷⁰ 44 C.F.R. § 206.202(c).

606 are examples of extenuating circumstances that FEMA considers to be beyond the applicant’s or recipient’s
607 control⁷¹:

- 608 ▪ The applicant is only claiming categories of work that were not authorized for the respective area in the
609 initial declaration.
- 610 ▪ Delays were due to slow responses or other issues caused by FEMA.
- 611 ▪ FEMA’s Grants Portal was down on the date the applicant tried to submit the RPA and it was the same
612 day as the deadline.
- 613 ▪ Communication systems were down for such an extended time period that applicants in the area were
614 unable to receive or send information.

615 The recipient reviews each RPA to determine if the entity meets the criteria of an eligible applicant, provides
616 an assessment of the applicant’s risk of noncompliance as required by 2 C.F.R. § 200.332(b), and
617 recommends whether FEMA should approve the RPA.

618 Applicant Eligibility: State, Local, Tribal, and Territorial 619 Government Entities

620 State and Territorial Governments

621 State and Territorial governments, including the District of Columbia, American Samoa, the Commonwealth
622 of the Northern Mariana Islands, Guam, Puerto Rico, and the U.S. Virgin Islands, are eligible applicants. This
623 includes any agency or instrumentality thereof, exclusive of local governments.⁷² The state or territorial
624 government designates one of the agencies (usually the emergency management agency) as the recipient.
625 The recipient serves as the pass-through entity to the other agencies, which are subrecipients.

626 Tribal Governments

627 Federally recognized Indian Tribal governments, including Alaska Native villages and organizations, are
628 eligible applicants. A [searchable list of federally recognized tribal nations](#) is available through the Bureau of
629 Indian Affairs (BIA). Alaska Native Corporations are ineligible as they are privately owned.⁷³ When a federally
630 recognized tribal government receives a Presidential emergency or major disaster declaration, they do not
631 need to designate a separate department or agency to act as the recipient.

632 While state recognized tribes that are not federally recognized cannot request a Presidential declaration,
633 they are eligible applicants, as are heritage groups.⁷⁴ As eligible applicants they can receive PA Program
634 funding through the state.

635 Local Governments

636 The following types of local governments are eligible Applicants:⁷⁵

⁷¹ 44 C.F.R. § 206.202(f)(2).

⁷² Stafford Act § 102(4), 42 U.S.C. § 5122; 44 C.F.R. §§ 206.2(a)(22) and 206.222(a); and 2 C.F.R. § 200.90.

⁷³ Stafford Act § 102(6), 42 U.S.C. § 5122; 44 C.F.R. §§ 206.201(i) and 206.222(c); and 2 C.F.R. § 200.54.

⁷⁴ [Tribal Declarations Pilot Guidance](#).

⁷⁵ Stafford Act § 102(8), 42 U.S.C. § 5122; 44 C.F.R. §§ 206.2(a)(16) and 206.222(a); and 2 C.F.R. § 200.64.

- 637 ▪ Counties and parishes
- 638 ▪ Municipalities, cities, towns, boroughs, and townships
- 639 ▪ Local public authorities
- 640 ▪ School districts
- 641 ▪ Intrastate districts
- 642 ▪ Councils of governments (regardless of whether incorporated as nonprofit corporations under state law)
- 643 ▪ Regional and interstate government entities
- 644 ▪ Agencies or instrumentalities of local governments
- 645 ▪ State recognized tribes
- 646 ▪ Special districts established under state law
- 647 ○ Community Development Districts are special districts that finance, plan, establish, acquire,
- 648 construct or reconstruct, operate, and maintain systems, facilities, and basic infrastructure within its
- 649 respective jurisdictions. To be eligible, a Community Development District must own and be legally
- 650 responsible for maintenance, and operation of an eligible facility that is open to and serves the
- 651 general public.⁷⁶
- 652 The state or a political subdivision of the state may submit applications on behalf of rural communities,
- 653 unincorporated towns or villages, and other public entities not listed above.⁷⁷

654 Applicant Eligibility: Private Nonprofit Organizations

655 FEMA evaluates the PNP’s organization status and the services provided in each facility owned or operated
 656 by the PNP to determine whether a PNP is eligible.

657 To be eligible, the PNP must have been an established
 658 PNP organization⁷⁸, have owned or operated an eligible
 659 PNP facility at the time of the incident period and ensure
 660 that the facility is one that provides an eligible service,
 661 which is categorized as either (1) critical services, or (2)
 662 noncritical, but essential social services (see
 663 Figure 4. *PNP Eligibility*).⁷⁹ All three criteria must
 664 be met to be an eligible applicant.



Figure 4. PNP Eligibility

665 Organization Eligibility

666 For an organization to demonstrate its qualifications as a private nonprofit establishment it must provide a
 667 ruling letter from the U.S. Internal Revenue Service that was in effect as of the declaration date and granted
 668 tax exemption under sections 501(c), (d), or (e) of the Internal Revenue Code; or documentation from the

⁷⁶ Community Development Districts generally meet the requirement of serving the public based on the same criteria used for PNPs in Chapter 3: *Private Nonprofit Organizations*.

⁷⁷ Stafford Act § 102(8)(c), 42 U.S.C. § 5122; 44 C.F.R. § 206.2(a)(16)(iii).

⁷⁸ 44 C.F.R. § 206.221(f).

⁷⁹ 44 C.F.R. § 206.222(b).

669 state substantiating it is a non-revenue producing, nonprofit entity organized or doing business under state
 670 law.⁸⁰ For a list of documentation needed to demonstrate these requirements, see Table 4. *PNP RPA*
 671 *Documentation and Information Requirements*.

672 If the organization is not required to obtain 501(c)(3) status or tax-exempt status under applicable state law,
 673 the organization must provide articles of association, bylaws, or other documents indicating that it is an
 674 organized entity, and a certification that it is compliant with Internal Revenue Code section 501(c)(3) and
 675 state law requirements.



676 Terminology: For-Profit Entities

677 **For-profit entities** are not eligible applicants for assistance from FEMA under the Public Assistance
 678 Program. However, SLTT government entities may contract with private entities, including for-profit
 679 entities, to carry out eligible emergency protective measures. In these cases, FEMA will reimburse the
 680 eligible applicant for the cost of eligible work, and the applicant may then compensate the private
 681 entity for the provision of goods or services.

682 Facility Eligibility

683 Prior to determining whether the PNP is an eligible applicant, FEMA must first determine whether the PNP
 684 owns or operates an eligible facility that provides an eligible service.

685 A facility owned or operated by a PNP that provides a **critical service** defined as education, utility, emergency,
 686 or emergency medical care (see Table 1. *PNP Eligible Critical Services*) is eligible. Administrative and support
 687 facilities essential to the provision of the PNP critical service are eligible facilities. Administrative and support
 688 facilities may include, but are not limited to laundry facilities, kitchens, dining areas, dormitories, storage,
 689 record keeping areas, parking lots, access roads or bridges, administrative offices, school gyms, and school
 690 playgrounds.

691 A facility owned or operated by a PNP that provides a **noncritical, but essential social service** and provides
 692 those services to the general public (see Table 2. *PNP Eligible Noncritical, Essential Social Services*) is
 693 eligible. PNP facilities meet the requirement of serving the general public if ALL the following conditions are
 694 met:

- 695 ■ Facility use is not limited to any of the following:
 - 696 ○ A certain number of individuals;
 - 697 ○ A defined group of individuals who have a financial interest in the facility, such as a condominium
 698 association;
 - 699 ○ Certain classes of individuals; or
 - 700 ○ An unreasonably restrictive geographical area, such as a neighborhood within a community.

⁸⁰ 44 C.F.R. § 206.221(f).

- 701 ▪ Facility access is not limited to a specific population (such as those with gates or other security systems
702 intended to restrict public access); and
- 703 ▪ Any membership fees meet all of the following criteria:
- 704 ○ Are nominal;
- 705 ○ Are waived when an individual can show inability to pay the fee;
- 706 ○ Are not of such magnitude to preclude use by a significant portion of the community; and
- 707 ○ Do not exceed what is appropriate based on other facilities used for similar services.

708 In cases where a PNP is leasing a facility to another entity that is providing the services, FEMA reviews any
709 fees the lessee charges individuals for the services. FEMA does not review the cost of the lease to determine
710 if the facility is serving the general public.

711 Certain types of facilities that restrict access in a manner clearly related to the nature of the facility, such as
712 senior centers, center-based childcare, custodial care, rehabilitation or educational facilities; or houses of
713 worship (HOW) that limit membership in the organization to individuals who share a religious faith or
714 practice, are still considered to provide essential social services to the general public.



715 Terminology: Rehabilitational facilities and Rehabilitation facilities

716 The Stafford Act references both rehabilitational facilities and rehabilitation facilities.

- 717 ▪ **Rehabilitational facilities** are those that provide social services or counseling support for drug or
718 alcohol dependency treatments.
- 719 ▪ **Rehabilitation facilities** are those that provide rehabilitation services after physical injury.

720 Facilities established or primarily used for political, athletic, or recreational activities, vocational,
721 conferences, retreats, or similar activities are ineligible for PA funding (see Table 3. *PNP Ineligible Services*).

722 PNPs that own or operate facilities that only provide noncritical services must also apply for a disaster loan
723 for facility restoration from the U.S. Small Business Administration (SBA) (see Chapter 3: *Small Business*
724 *Administration Loan Requirement*).

725 Multiple Facilities

726 If a PNP operates multiple facilities, or a single facility composed of more than one building, FEMA must
727 evaluate each building independently, even if all are located on the same grounds. Structures that are part
728 of a complex that includes outdoor facilities (e.g., swimming pools, athletic fields, or tennis courts) are not
729 evaluated separately from the rest of the complex when determining eligibility of the building. Support
730 facilities are evaluated based on the purpose of the facility they support. See Appendix B: *Private Nonprofit*
731 *Facility Eligibility Examples*, for examples of PNP facilities and corresponding eligibility determinations.

732 **Mixed-Use Facility**

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

739 If FEMA determines that 50 percent or more of physical space is dedicated to ineligible services, the entire
740 facility is ineligible. If the facility is eligible, FEMA prorates funding based on the percentage of physical
741 space dedicated to eligible services. Depending on the specifics of the scenario, FEMA either prorates
742 funding for debris removal and emergency protective measures or limits such funding to what is eligible,
743 necessary, and reasonable. The applicant is responsible for the balance of costs to restore the facility and
744 must restore the entire facility to receive funding for repairs to the eligible-use portions of the facility.

745 Eligible PNP irrigation and eligible PNP public broadcasting facilities are exempt from primary use
746 requirements. However, in consideration of irrigation, FEMA will evaluate whether the facility was designed
747 to provide eligible irrigation and whether it has ever been used for that purpose. If the facility was not
748 designed for an eligible irrigation purpose, and has never been utilized for that purpose, it is not eligible.

749 **Mixed-Use Space**

750 In cases where a single facility provides both critical and eligible non-critical services, FEMA does not
751 perform a calculation to determine whether the primary use is for critical or non-critical services. FEMA only
752 performs this calculation to determine whether a facility is primarily used for eligible services.

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

755 In cases where the same physical space is used for both eligible and ineligible services, the primary use is
756 the use for which more than 50 percent of the operating time is dedicated in that shared physical space. If
757 space is available for use, but the applicant cannot support that it is used for eligible services for more than
758 50 of the percent of operating time, this criterion is not met.

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

761 **Multiple Services**

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

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

767 **Use by Multiple Entities**

768 In cases where a PNP applicant shares use of a facility, it is only eligible if the facility is primarily owned by
 769 the PNP applicant. FEMA prorates funding for these facilities based on the percentage of physical space that
 770 the Applicant owns and dedicates to eligible services. The following guidelines are used to determine the
 771 eligibility of such facilities:

- 772 ▪ If the eligible PNP owns the entire facility and leases a portion of it to another entity, the facility is eligible
 773 provided that the PNP dedicates more than 50 percent of the facility for eligible services. If the PNP
 774 leases 50 percent or more of the facility to an ineligible Applicant, or for ineligible services, then the
 775 facility is ineligible.
- 776 ▪ If the eligible PNP only owns a portion of the facility, it is eligible provided that the PNP owns more than
 777 50 percent of the facility and dedicates more than 50 percent of physical space for eligible services.

778 **Leased Facilities**

779 If an eligible PNP leases a facility to another eligible PNP that provides an eligible service in that facility, the
 780 facility is eligible. Even though the lessee does not own the facility it may be the eligible applicant because it
 781 operates the facility. Whichever PNP (the owner or the lessee) has the legal responsibility to maintain the
 782 facility is the eligible applicant.

783 **Small Business Administration Loan Requirement**

784 Following a Major Disaster Declaration, the SBA provides loans to individuals and businesses for facility
 785 restoration. For PNPs with facilities that provide noncritical, essential social services, FEMA provides PA
 786 funding for eligible debris removal and emergency protective measures associated with the eligible facilities.
 787 However, FEMA only provides funding for Permanent Work costs that an SBA loan will not cover. Therefore,
 788 PNPs that do not provide any critical services must also apply for a disaster loan from the SBA and receive a
 789 determination for Permanent Work on facilities that:⁸¹

- 790 ▪ Provide noncritical services; or
- 791 ▪ Are mixed-use facilities and the damaged portion of the facility provides services that are entirely
 792 noncritical.

793 PNPs do not need to apply for an SBA loan for any facilities that provide critical services (even if the facility
 794 also provides non-critical services).

Type of Services Provided	Emergency Work	Permanent Work
Critical Services	SBA application not required	SBA application not required
Non-critical but Essential Government Services	SBA application not required	SBA application is required

⁸¹ Stafford Act § 406(a)(3)(A)(ii), 42 U.S.C. § 5172; 44 C.F.R. § 206.226(c). For online applications to SBA, The Applicant should visit the SBA website at disasterloan.sba.gov/ela/. For additional assistance with the application process, the Applicant should contact the SBA Disaster Customer Service Center at 1-800-659-2955.

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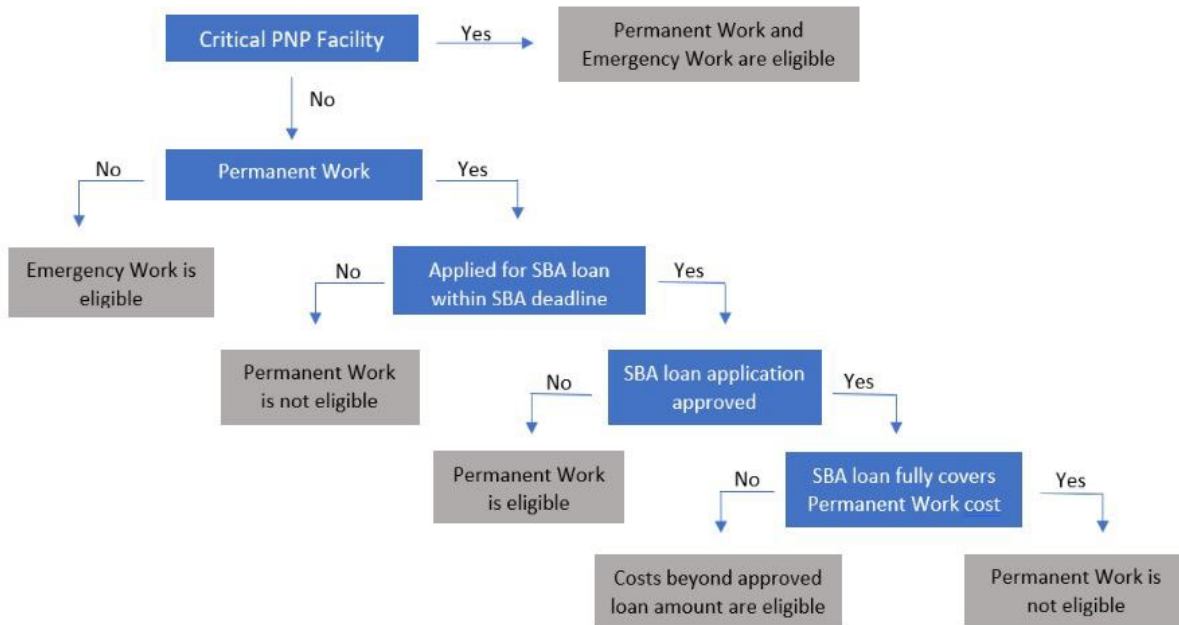
796 FEMA and SBA cannot provide disaster assistance funding that duplicates insurance proceeds. An Applicant
 797 must pursue claims to recover insurance proceeds that it is entitled to receive from its insurer(s).

798 **SMALL BUSINESS LOAN ELIGIBILITY**

799 SBA disaster loans are available up to \$2 million to qualified businesses or most private nonprofit
 800 organizations to cover disaster losses not fully covered by insurance. The loan covers disaster losses not
 801 fully covered by insurance or other sources. If the applicant is required to apply insurance proceeds to an
 802 outstanding mortgage on the damaged property, that amount can be included in the disaster loan
 803 application. Any proceeds from insurance coverage on business property may be deducted from the eligible
 804 loan amount.

805 SBA disaster loan funds may not be used to upgrade or expand a business, except as required by building
 806 codes. Mitigation assistance to make improvements that help reduce the risk of future property damage
 807 caused by a disaster is available up to a 20% loan amount increase above the facility damage if approved by
 808 SBA.

809 Both FEMA and the SBA have application deadlines. Applying to both agencies as soon as possible ensures
 810 meeting both application deadlines. If the PNP misses the SBA application deadline, including any SBA
 811 approved extension, permanent work is ineligible for FEMA PA funding. If the PNP declines an SBA loan, PA
 812 funding is limited to the costs that the loan would not have otherwise covered. This applies even when the
 813 PNP cannot accept the terms of the loan by, for example not meeting a collateral requirement, and the SBA
 814 therefore denies the loan. Possible outcomes are shown in Figure 5. *SBA Loan Outcomes*.



815

816

Figure 5. SBA Loan Outcomes

817 **Private Nonprofit Services**

818 Facilities that provide critical services or noncritical but essential social services that are provided to the
 819 general public are eligible for assistance.

820 **Table 1. PNP Eligible Critical Services**

PRIVATE NONPROFIT ELIGIBLE CRITICAL SERVICES	
EDUCATION	EMERGENCY MEDICAL
<ul style="list-style-type: none"> ▪ Primary or secondary education as determined under State law; OR ▪ Higher-education institutions that meet all of the following criteria: <ul style="list-style-type: none"> ○ 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 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 religious character or use for religious instruction. 	<ul style="list-style-type: none"> ▪ Medical care (diagnosis or treatment of mental or physical injury or disease). These types of services are often provided in: <ul style="list-style-type: none"> ○ Clinics; ○ Dialysis facilities; ○ Facilities that provide in-patient care for convalescent or chronic disease patients; ○ Hospices and nursing homes; ○ Hospitals and related facilities, including: <ul style="list-style-type: none"> - 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; and ○ Rehabilitation centers.
UTILITY	EMERGENCY SERVICES
<ul style="list-style-type: none"> ▪ Communications transmission and switching, and distribution of telecommunications traffic. ▪ Electric power generation, transmission, and distribution (FEMA encourages restoration of these facilities with the use of low-carbon power generation sources). ▪ 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. 	<ul style="list-style-type: none"> ▪ Ambulance; ▪ Fire protection; ▪ Rescue; and ▪ Public broadcasting that monitors, receives, and distributes communication from the Emergency Alert System to the public.

PRIVATE NONPROFIT ELIGIBLE CRITICAL SERVICES

Administrative and support facilities essential to the provision of the PNP critical service are eligible facilities. Administrative and support facilities may include, but may not be limited to: laundry facilities, kitchens, dining areas, dormitories, storage, record keeping areas, parking lots, access roads or bridges, administrative offices, school gyms, and school playgrounds.

821

822 **Table 2. PNP Eligible Noncritical, Essential Social Services**

PRIVATE NONPROFIT ELIGIBLE NONCRITICAL, ESSENTIAL SOCIAL SERVICES

Community centers or other facilities established and primarily used for the following services (or similar):

- Art services authorized by a SLTT government, including, but not limited to: arts administration, art classes, management of public arts festivals, and performing arts classes.
- Educational enrichment activities, including, but not limited to: hobby or at-home pursuits, such as: car care, ceramics, gardening, personal financial and tax planning, sewing, stamp and coin collecting, vocational, academic, or professional training.
- 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, and youth and senior citizen group meetings.
- 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, and rehearsals.

Facilities that provide:

- Alcohol and drug treatment and other rehabilitation services.
- Assisted living.
- Custodial care, even if the service is not provided to the general public (including essential administration and support facilities).
- Center-based childcare, even if not provided to the public.
- Day care for individuals with disabilities or access and functional needs (for example, those with Alzheimer’s disease, autism, muscular dystrophy).
- Food assistance programs, including food banks and storage of food for food programs.
- Health and safety services, including animal control services.
- Low-income housing (as defined by federal or SLTT law or regulation).
- Religious instruction.
- Residential and other services for families of domestic abuse.
- Residential services for individuals with disabilities.
- Shelter workshops that create products using the skills of individuals with disabilities.

Facilities serving as:

- Homeless shelters.

- Houses of worship and faith-based organizations (e.g., churches, synagogues, mosques, and temples).
- Libraries.
- 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
 - Senior citizen centers.
 - Zoos.

With exception of custodial care facilities and museums, administrative and support facilities essential to the provision of PNP noncritical service are ineligible facilities.

823

824

Table 3. PNP INELIGIBLE SERVICES

PRIVATE NONPROFIT INELIGIBLE SERVICES

- Community meetings or activities for only a brief period, or at irregular intervals;
- Athletic training;
- Political education and activities;
- Advocacy or lobbying groups not directly providing health services;
- Conferences;
- Flood control (e.g., levees, berms, dunes) not under the legal responsibility of a PNP;
- Land reclamation;
- Irrigation solely for agricultural purposes;⁸²
- Day care services not included in previous table of eligible services;
- Job counseling;
- Public housing, other than low-income housing;
- Recreation;
- Residential services not included in previous table of eligible services (e.g., cabins or other overnight accommodations);
- Cemetery;
- Docks, piers;
- Camps;
- Retreats;
- Grounds at museums and historic sites; and
- Open natural areas or features, or facilities that promote the preservation or conservation of such areas.

⁸² 44 C.F.R. § 206.221(e)(3).

825 **Table 4. PNP RPA Documentation and Information Requirements**

PRIVATE NONPROFIT APPLICANT DOCUMENTATION REQUIREMENTS	
All PNP Applicants	<ul style="list-style-type: none"> ▪ A ruling letter from the Internal Revenue Service that was in effect on the declaration date and granted tax exemption under sections 501(c), (d), or (e) of the Internal Revenue Code; or ▪ Documentation from the State substantiating it is a non-revenue producing, nonprofit entity organized or doing business under State law; or ▪ If exempt from both the requirement to apply for 501(c)(3) status and tax-exempt status under State law, the organization must provide articles of association, bylaws, or other documents indicating that it is an organized entity and a certification that it is compliant with Internal Revenue Code section 501(c)(3) and State law requirements.
Legal Responsibility	<ul style="list-style-type: none"> ▪ If the Applicant owns the damaged facility, proof of ownership (e.g., deed, title, bill of sale or land contract, reoccurring mortgage payments or booklet, property tax receipt or property tax bill, or a real property structure insurance policy). ▪ If the Applicant leases the damaged facility, proof of legal responsibility to repair the incident-related damage (e.g., lease contract/agreement).
Services	<ul style="list-style-type: none"> ▪ List of services provided in the damaged facility, when, and to whom.
Membership Organization	<ul style="list-style-type: none"> ▪ Who is allowed membership. ▪ Fee policy or description of fees charged. ▪ Policy regarding waiving memberships.
Child Care Facility	<ul style="list-style-type: none"> ▪ Proof that the State Department of Children and Family Services, Department of Human Services, or similar agency, recognizes it as a licensed childcare facility.
Education	<ul style="list-style-type: none"> ▪ Proof that the school is accredited or recognized by the State Department of Education. State regulations for private schools vary and some states do not require accreditation. A PNP school must demonstrate that it is recognized by the state as providing elementary or secondary education. Depending on state requirements, documentation may include, but is not limited to, the following: <ul style="list-style-type: none"> ▪ Accreditation documents; ▪ Certification from the State Department of Education that the Applicant operated the facility as a PNP school at the time of the incident; ▪ Documentation demonstrating compliance with the State’s compulsory attendance laws; ▪ School-year calendar; ▪ School budget; ▪ Number of students and faculty; ▪ Complete list of educational instruction property and equipment owned by the PNP; ▪ Tax records; ▪ Documents reflecting school curriculum, transcripts, health and safety, or code of conduct; ▪ Tuition receipts; ▪ Financial statements; ▪ Commencement documents;

	<ul style="list-style-type: none">▪ Inclusion in the U.S. Department of Education’s National Center for Education Statistics Private School Universe Survey data;⁸³ and▪ State Department of Education electronic and paper homeschool declaration or registration forms.
Mixed-Use Facility	<ul style="list-style-type: none">▪ Proof of the established purpose of the facility with documentation, such as:<ul style="list-style-type: none">▪ U.S. Internal Revenue Service documentation;▪ Pre-incident charter, bylaws, and amendments; or▪ Evidence of longstanding, routine (day-to-day) use (e.g., a calendar of activities).

826

⁸³ The [Private School Universe Survey electronic search tool](#).

827 Chapter 4: General Facility and Work Eligibility

828 FEMA processes PA grant funding according to the type of work the applicant undertakes. For work to be
 829 eligible, it must be required as a result of the declared incident, be located in the designated area, be the
 830 legal responsibility of the applicant, and be undertaken at a reasonable cost. This chapter provides
 831 important information relating to PA facility eligibility and general requirements for work to be eligible.

832 Facility Eligibility

833 In general, a facility must be determined eligible for
 834 work to be eligible. There are exceptions for some
 835 emergency protective measures as shown in *Figure*
 836 *6. Facility Eligibility* and discussed in Chapter [7](#).
 837 [Emergency Work Eligibility](#).

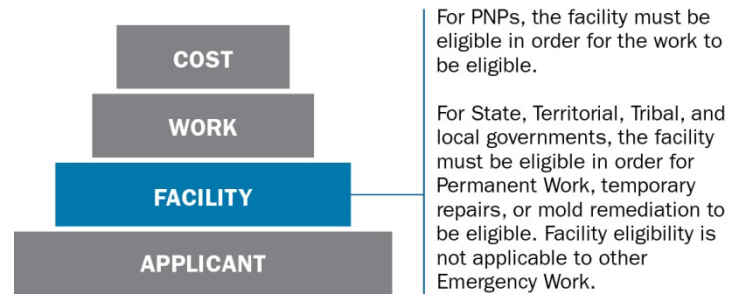


Figure 6. Facility Eligibility

838 Public Facility

839 An eligible public facility is one that an SLTT
 840 government owns or has legal responsibility for
 841 maintaining. A facility includes any:

- 842 ▪ System including flood control, navigation, irrigation, reclamation, public power (e.g., sewage treatment
 843 and collection, water supply and distribution), or watershed development;
- 844 ▪ Building such as maintenance and storage sheds, restroom facilities, bath houses, or outbuildings
 845 including ancillary facilities;
- 846 ▪ Non-federal-aid street, road, or highway; ⁸⁴ ramps, or access roads;
- 847 ▪ Public buildings, structure, or system, including those used for educational, recreational, or cultural
 848 purposes;
- 849 ▪ Airport facility ⁸⁵ including runways;
- 850 ▪ Park ⁸⁶ including piers, docks, trails, benches, picnic tables, swimming pools, golf courses, or ball fields;
 851 or
- 852 ▪ Other public facilities including pumping stations, communication towers and antennas, contents,
 853 supplies, equipment, vehicles, fences, parking lots, stairs, signage, lighting, sidewalks, gutters, ditches,
 854 guard rails, integral ground, catch basins, or outfall structures.

855
 856 A natural feature is improved and maintained if it meets all of the following conditions:

- 857 ▪ The natural feature has a designed and constructed improvement to its natural characteristics, such as
 858 a terraced slope or realigned channel;

⁸⁴ Stafford Act § 102(10).

⁸⁵ Ibid.

⁸⁶ Stafford Act § 102(10), 42 U.S.C. § 5122; 44 C.F.R. § 206.221(h).

- 859 ▪ The constructed improvement enhances the function of the unimproved natural feature; and
- 860 ▪ The applicant maintains the improvement on a regular schedule to ensure that the improvement
- 861 performs as designed.

862 Only the section of a natural feature that meets the criteria above is eligible. For example, if only 150 linear
863 feet of a natural channel bank is armored with rip rap and maintained, the eligible facility would be limited to
864 that 150-linear-foot section. Additionally, nature based solutions that are designed to mitigate future
865 damage are eligible facilities but are limited to the area designed and maintained to perform the intended
866 function.⁸⁷

867 The following are ineligible facilities:

- 868 ▪ Unimproved property which is not enhanced or maintained (e.g., a hillside or slope, forest, or natural
- 869 channel bank); and
- 870 ▪ Land used for agricultural purposes.⁸⁸

871 When a facility maintained by a Community Development District is not open to the general public or does
872 not provide a service to the general public, the facility is ineligible.

873 **Inactive or Partially Inactive Facility**

874 To be eligible, a facility must have been in active use at the start of the incident period. Inactive or partially
875 inactive facilities are ineligible, unless one of the following conditions is met:

- 876 ▪ The facility was only temporarily inactive for repairs or remodeling (provided a contractor is not
- 877 responsible for repair of disaster-related damage);
- 878 ▪ The applicant established future active use in an approved budget or plans; or
- 879 ▪ The applicant can clearly demonstrate its intent to begin use within a reasonable amount of time.⁸⁹

880 For facilities that are partially occupied and therefore partially inactive at the time of a disaster, the inactive
881 portions would not be eligible unless one of the exceptions apply. In all cases, the facility in question must
882 have been eligible for assistance during the time it was in use. When the eligible repairs would benefit a non-
883 active area, the assistance will be pro-rated according to the percentage of the facility that was in active use.
884 For example, if the roof of a partially used building is destroyed, FEMA limits the eligible cost to a prorated
885 amount of the total cost to replace the roof based on the percentage of the building that was in active use.

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

888 **Facility Scheduled for Repair or Replacement**

889 Facilities that are not yet under contract but are scheduled for repair or replacement using non-federal funds
890 are eligible provided that the claimed damage did not exist prior to the incident (FEMA reviews procurement

⁸⁷ Building Community Resilience with Nature-Based Solutions: A Guide for Local Officials (fema.gov)

⁸⁸ Stafford Act § 102(10).

⁸⁹ 44 C.F.R. § 206.226(k)(2).

891 and contract documents to validate). If damage existed prior to the incident, only the repair of damage
 892 caused by the incident is eligible.

893 A facility scheduled for replacement within 12 months of the start of the incident period using federal funds
 894 is ineligible. In such a case, the applicant should coordinate with the agency funding the project to expedite
 895 replacement, if possible.

896 General Work Eligibility

897 Through the PA Program, FEMA provides grant funding for:

- 898 ▪ Debris removal (Emergency Work);
- 899 ▪ Emergency protective measures (Emergency Work);
- 900 ▪ Permanent restoration of damaged facilities, including cost-effective hazard mitigation to protect the
 901 facilities from future damage (Permanent Work); and
- 902 ▪ Building code and floodplain management administration and enforcement activities (Permanent Work).

903 If an entity does not comply with all applicable statutes, EOs, regulations, and policies, FEMA may take one
 904 of several actions including disallowing all or part of the cost of the project not in compliance.⁹⁰

905 Emergency Work vs. Permanent Work

906 Emergency Work addresses an immediate threat.
 907 Permanent Work includes the restoration of a
 908 damaged facility or building code and floodplain
 909 management administration and enforcement
 910 activities. To facilitate the processing of PA
 911 funding, FEMA further separates both Emergency
 912 Work and Permanent Work into categories. These
 913 categories are shown in *Figure 7. Categories of Work*.
 914

915 Minimum Work Eligibility Criteria

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

- 918 ▪ Be required as a result of the declared
 919 incident;
- 920 ▪ Be located within the declared area; and
- 921 ▪ Be the legal responsibility of an eligible applicant.⁹¹

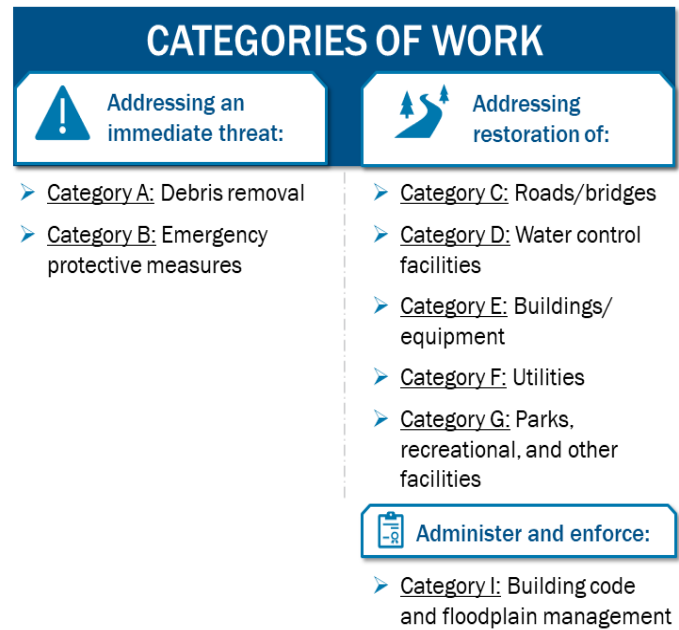


Figure 7. Categories of Work

⁹⁰ 2 C.F.R. § 200.338.

⁹¹ 44 C.F.R. § 206.223(a).

922 Work eligibility is discussed in detail in Chapters [7. Emergency Work Eligibility](#) and [8. Permanent Work](#)
 923 [Eligibility](#).

924 **RESULT OF DECLARED INCIDENT**

925 The applicant must be able to demonstrate that any claimed impacts and damage occurred during the
 926 declared incident period, were caused directly by the declared incident, and that the work claimed is
 927 required to address the incident-related impacts and damage as follows:

- 928 ▪ For debris removal, the applicant must be able to demonstrate that the debris claimed was generated by
 929 the declared incident, during the declared incident period, and that removal of the debris addresses an
 930 immediate threat resulting from the declared incident.
- 931 ▪ For emergency protective measures, the applicant must be able to demonstrate that the work addresses
 932 an immediate threat resulting from the declared incident.
- 933 ▪ For Permanent Work, temporary repairs, and mold remediation, the applicant must demonstrate that the
 934 work addresses damage caused by the declared incident.

935 The applicant must clearly define impacts and damage caused by the declared incident and separate them
 936 from any impacts or damage not caused by the declared incident. The applicant must also separate any
 937 work or costs associated with addressing impacts or damage not caused by the declared incident.



938 **Examples: Impacts or Damage not Caused by the Declared Incident**

- 939 ▪ Previously existing damage or debris;
- 940 ▪ Impacts or damage resulting from a different incident even if it occurred during the incident period
 941 of the declared incident;
- 942 ▪ Impacts or damage that occur after the incident period and prior to conducting incident-related
 943 repairs;
- 944 ▪ Deterioration (wear and tear);
- 945 ▪ Deferred maintenance;
- 946 ▪ Impacts or damage due to failure to take measures to protect a facility from further damage in a
 947 timely manner; or
- 948 ▪ Impacts or damage due to negligence.⁹²

949 **Documentation to Support Cause of Impacts and Damage**

950 For small projects, the applicant must certify, in lieu of providing documentation, to the following:

- 951 ▪ Debris Removal - the debris was generated by the declared incident, during the declared incident period,
 952 and that removal of the debris addresses an immediate threat resulting from the declared incident.
- 953 ▪ Emergency Protective Measures - the immediate threat resulted from the declared incident.

⁹² 44 C.F.R. § 206.223(e).

954 ▪ Permanent Work - the damage was caused directly by the declared incident and did not result from a
955 lack of maintenance.

956 For large projects, only if necessary to validate that the impacts or damage was caused by the declared
957 event, the applicant will be required to provide:

- 958 ▪ Pre-incident photographs of the impacted site or facility; and/or
- 959 ▪ Documentation supporting pre-disaster condition of the facility (e.g., facility maintenance records or
960 inspection/safety reports).

961 Not every large project requires documentation to substantiate the impacts and damage caused by the
962 event. Frequently, during site inspections, it is evident that the claimed damage, as explained by the
963 applicant, is a direct result of the specific event, as indicated by the effects of the event in the vicinity of the
964 damage. In such instances, the applicant is not required to furnish pre-incident images, records of
965 maintenance, or reports on inspections and safety measures. For instance, in scenarios where an entire
966 bridge is washed away during flooding or a building is consumed by fire, there is no requirement for
967 maintenance records to validate the incident-caused damage.

968 Additionally, in cases where, during flooding, a complete segment of road is eroded or a road on a steep
969 incline collapses due to embankment failure, even if signs suggest that the road surface had not been
970 consistently upheld (visible fatigue cracks on the road surface in nearby sections), the need for maintenance
971 records to support the overall failure caused by the event is negated.

972 Certain project types (e.g., the restoration of well-maintained natural features and beaches) do mandate the
973 submission of maintenance records and/or photographs. These stipulations are elaborated upon in
974 subsequent sections of this document.

975 If a facility was functioning prior to the disaster and the disaster caused damage that rendered the facility
976 non-functional, the facility may be eligible provided the pre-disaster condition was not a significant
977 contributing factor in the cause of failure.

978  Terminology: Pre-Disaster

979 **Pre-disaster** is defined as in effect at the incident start date (not the declaration date).

980 **WITHIN DESIGNATED AREA**

981 To be eligible, the facility must be located, and work must be performed, in a designated area [except for
982 sheltering, evacuation, and Emergency Operations Center (EOC) activities]. Sheltering, evacuation, and EOC
983 activities may occur outside of a designated area but must be used for activities resulting from the
984 designated area.⁹³ Work performed on a facility located outside of a designated area is ineligible. This is true

⁹³ 44 C.F.R. § 206.223(a)(2).

985 even if an eligible applicant is legally responsible for the work, including work performed outside the
986 designated area to protect a facility within the designated area.

987 Tribal governments do not always have geographical boundaries (e.g., counties, parishes or other) and some
988 have boundaries that cross state lines. Therefore, tribal declarations do not usually define specific declared
989 geographical areas for tribal governments. For tribal governments, FEMA determines eligibility based on
990 legal responsibility and whether the work is required due to the declared incident.

991 **Documentation to Support Within Declared Area**

992 For small and large projects, the applicant must provide the facility location (e.g., address or GPS) and certify
993 that the facility, and subsequent work, is located within the designated area(s).

994 **LEGAL RESPONSIBILITY**

995 To be eligible, work must be the legal responsibility of the applicant requesting assistance.⁹⁴ To determine
996 legal responsibility for debris removal and emergency protective measures, FEMA evaluates whether the
997 applicant requesting the assistance either had jurisdiction over the area or the legal authority to conduct the
998 work related to the request at the time of the incident.

999 To determine legal responsibility for Permanent Work, FEMA evaluates whether the applicant claiming the
1000 costs had legal responsibility for disaster-related restoration of the facility at the time of the incident based
1001 on ownership and the terms of any written agreements (such as for facilities under construction, leased
1002 facilities, and facilities owned by a federal agency). Ownership of a facility is usually sufficient to establish
1003 the applicant's legal responsibility to restore the facility, provided it is not under construction by a contractor
1004 or leased to another entity at the time of the incident.

1005 **Documentation to Support Legal Responsibility**

1006 For small projects, the applicant must certify that the facility and work are the applicant's legal responsibility.

1007 For large projects, if necessary to validate legal responsibility, applicants must provide one of the following
1008 documents:

- 1009 ▪ Deed;
- 1010 ▪ Title;
- 1011 ▪ Lease agreement (required for leased facilities);
- 1012 ▪ Bill of sale;
- 1013 ▪ Land contract;
- 1014 ▪ Mortgage booklet or reoccurring mortgage payments;
- 1015 ▪ Property tax receipt or property tax bill;
- 1016 ▪ Real property structured insurance policy; or

⁹⁴ 44 C.F.R. § 206.223(a)(3).

- 1017 Contract (required for facilities under construction at the time of the incident).

1018 **Facilities under Contract for Construction**

1019 If a construction contract was in place for the facility at the time of the incident, FEMA reviews the contract
1020 to determine whether the applicant is legally responsible for the repair of damage caused by the incident.⁹⁵

1021 At a minimum, FEMA evaluates the contract to determine if it:

- 1022 Identifies the contractor or owner as being responsible for disaster-related repairs;
- 1023 Requires a builder’s risk policy for losses that occur while the contractor has control of the facility;
- 1024 Has a *force majeure* provision, which is a clause that relieves the contractor from responsibility for
1025 damage beyond its reasonable control, such as natural disasters (often referred to “acts of God”) or acts
1026 of war; or
- 1027 Has a provision that identifies the point at which the contractor transfers legal responsibility for the
1028 facility, or portions of the facility, back to the owner.

1029 **Leased Facilities**

1030 The applicant may own a facility and lease it to a tenant, or the applicant may lease a facility owned by
1031 another party. In either case, FEMA reviews the lease agreement to determine legal responsibility for repair
1032 of damage caused by the incident. If the lease does not specify either party as responsible, FEMA considers
1033 the owner of the facility legally responsible for the costs to restore the facility.

1034 If the lease is between two eligible applicants, FEMA provides PA funding to the applicant legally responsible
1035 for the restoration.

1036 **Federal Facilities**

1037 Facilities owned and maintained by federal agencies are ineligible. If a federal agency constructed a facility
1038 and formally designated the applicant as the legally responsible entity for facility operation, maintenance,
1039 and repairs, then the facility may be eligible. FEMA reviews the other federal agency’s authority and
1040 agreement between the federal agency and the applicant to confirm the legally responsible entity.

1041 **Jurisdiction over an Area**

1042 In general, the applicant only has legal responsibility to conduct activities within its jurisdiction. If the
1043 applicant conducts activities outside its jurisdiction, it must demonstrate its legal basis and responsibility to
1044 conduct those activities.

1045 **Conducting Activities on Private Property**

1046 Work on private property is the legal responsibility of the property owner and generally ineligible for PA
1047 funding. In rare cases, FEMA may provide PA funding for specific limited activities. In such cases, at a
1048 minimum, the applicant must have legal authority to conduct the activity. To determine whether a SLTT
1049 government has legal authority to conduct activities on private property, FEMA reviews the applicant’s legal

⁹⁵ Stafford Act § 406(e)(2), 42 U.S.C. § 5172.

1050 basis and specific authority to conduct the activities. See Chapter 7: *Debris Removal from Private Property*
1051 and 7: *Emergency Protective Measures on Private Property* for additional eligibility requirements.

1052 **Work Under the Authority of Other Federal Agencies**

1053 Other federal agencies (OFAs) have authority to conduct work that may overlap with FEMA’s authority.
1054 FEMA’s authority is broad, and most OFA authorities are more specific than FEMA’s authorities. FEMA
1055 evaluates its authorities against OFA authorities.

1056 Some of the Factors that FEMA considers when evaluating whether an OFA has more specific authority are
1057 whether the OFA’s authority is specifically and exclusively:

- 1058 ▪ Available for a particular type of facility, work, or activity;
- 1059 ▪ Applicable to a Presidential Declaration under the Stafford Act;
- 1060 ▪ Specific to an incident or type of incident; or
- 1061 ▪ Delineated under direction by Congress.

1062 In such cases, FEMA does not provide assistance for the facilities or work even if that OFA does not provide
1063 funding for the facility or work.⁹⁶ This restriction includes any activities or costs related to the work that falls
1064 under OFA authorities as the costs are not related to eligible work. The applicant should apply to the
1065 respective agency for assistance with a facility or work under that agency’s authority.

1066 **Environmental and Historic Preservation Requirements**

1067 Several laws, EOs, and regulations establish requirements to protect the environment and preserve the
1068 Nation’s historic and archaeological resources. FEMA reviews each PA project to ensure the work complies
1069 with applicable federal EHP laws and implementing regulations, and applicable EOs.⁹⁷ The applicant is
1070 responsible for complying with applicable federal, state, tribal, or territorial EHP laws even if FEMA is not
1071 providing PA funding for all the work. See Chapter 10: *Environmental and Historic Preservation* for more
1072 information on EHP review and considerations. See Appendix A: *Environmental and Historic Preservation*
1073 *Compliance* for a description of common EHP laws, regulations, and Executive Orders (EOs).

1074 FEMA provides technical support to applicants throughout the recovery process to help ensure compliance
1075 with all EHP laws, regulations, and EOs, as well as to identify opportunities to incorporate conservation
1076 and/or mitigation measures in the project area for the protection and preservation of environmental or
1077 historic resources.

1078 **Equity Considerations**

1079 Disaster impacts can vary for communities, which is often influenced by a complex interplay of geographical,
1080 demographic, political, historical, and cultural factors. Unfortunately, underserved communities and specific
1081 identity groups often bear a disproportionate brunt of disaster consequences, exacerbating pre-existing

⁹⁶ 44 C.F.R. § 206.226(a).

⁹⁷ 2 C.F.R. § 200.300.

1082 societal inequalities. This damaging cycle further compounds the challenges these marginalized groups face,
1083 intensifying their vulnerability to future disasters.

1084 To disrupt this detrimental pattern and foster a more resilient nation, FEMA is focused on ensuring equity as
1085 a fundamental principle during recovery operations. Recognizing and addressing the distinct requirements of
1086 underserved communities is crucial. This principle aligns with the Stafford Act intent which mandates that
1087 FEMA assistance be administered impartially, devoid of discrimination based on race, color, religion,
1088 nationality, sex, age, disability, language accessibility, or economic status. FEMA is driven to support the
1089 diverse needs of communities to ensure inclusivity in the benefits of the PA program.

1090 In this endeavor, FEMA commits to integrating equity throughout its mission through transformative changes
1091 across its workforce, programs, and the broader emergency management community. This objective
1092 emphasizes the necessity of viewing equity not as an isolated notion, but as an integral component woven
1093 into the fabric of PA. Through these objectives, PA aims to forge a path towards a more equitable, inclusive,
1094 and resilient nation, where all communities can effectively withstand and recover from the impact of
1095 disasters.

1096 **Advancing Racial Equity and Support for Underserved Communities Through the Federal Government**

1097 Executive Order 13985 defines equity as “the consistent and systematic fair, just, and impartial
1098 treatment of all individuals, including individuals who belong to underserved communities that have
1099 been denied such treatment, such as Black, Latino, and Indigenous and Native American persons, Asian
1100 Americans and Pacific Islanders and other persons of color; members of religious minorities; lesbian,
1101 gay, bisexual, transgender, and queer (LGBTQ+) persons; persons with disabilities; persons who live in
1102 rural areas; and persons otherwise adversely affected by persistent poverty or inequality.”

1103 Additionally, “underserved communities” refers to populations sharing a particular characteristic, as well
1104 as geographic communities, that have been systematically denied a full opportunity to participate in
1105 aspects of economic, social, and civic life.”

1106 **Climate Considerations**

1107 As our nation continues to witness devastating disaster activity year after year, it is imperative that FEMA
1108 invest in building a more resilient nation. The PA program and policies must protect communities and the
1109 economy from the worst impacts of natural disasters before they occur. PA continues to develop new
1110 initiatives through its existing authorities and responsibilities including implementing the Federal Flood Risk
1111 Management Standard, advancing efforts to encourage the adoption of building codes, wildland fire
1112 management mitigation opportunities in PAPPG's Appendix J, and providing cost share incentives for
1113 mitigation considerations.

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Chapter 5: Damage and Impact Information

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Public Assistance provides reimbursement to address damage, debris impacts, and emergency protective measures necessary as a direct result of the declared incident. This chapter provides information on determining what damage and impacts are eligible, identifying damage and impacts, finalizing the list of impacts, and logically grouping into project applications.⁹⁸

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Impact List

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The applicant must submit a list that includes each facility damaged, each debris impacted site, and each overarching emergency protective measure taken to address immediate threats to the general public. The applicant must also identify whether it is claiming management costs or work and costs for building code or floodplain management administration or enforcement activities. The applicant lists the information by location with a rough estimate of the associated cost. The list does not include detailed descriptions of impacts, damaged components within a facility, or a final estimate of costs. FEMA does not use this information to determine the monetary assistance available for the applicant.

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Each activity and impacted site in the Impact List must include the following:

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- Facility name or unique identifier (e.g., campus name or site);

1130

- Facility type (e.g., building, road, or system);

1131

- Specific location (e.g., address or GPS coordinates) of debris impacts or facility damage (required);

1132

- General description of damage, emergency protective measures, or approximate type and quantities of debris;

1133

1134

- Approximate cost;

1135

- Status of work;

1136

- Date of original facility construction;

1137

- Whether the impact affects any underserved communities; and

1138

- Project priority level.

⁹⁸ 44 C.F.R. § 206.201(l).



Terminology: Site

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A **site** is defined as an individual building, structure, or system section. Examples include each:

1141

- Individual building or structure inclusive of its contents and supplies;

1142

- Beach or park inclusive of equipment and other items within the area that are not structures or buildings, such as benches or playground equipment;

1143

- Lift or pump station;

1144

- Dam; and

1145

- Section of roadway that has damage within a reasonable distance throughout that section.

1146

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Impact List Submission Deadline

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The applicant is required to identify and report all incident-related impacts and damage to FEMA within 60

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days of attending a Recovery Scoping Meeting.⁹⁹ FEMA may extend the deadline to identify and report the

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impacts if the applicant submits a request with justification based on extenuating circumstances beyond the

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recipient's or applicant's control.¹⁰⁰ For example, FEMA may extend the deadline for an inaccessible site or

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when an applicant is in an area where FEMA approved additional categories of work after the Recovery

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Scoping Meeting.

1154

Inundated and Submerged Roads

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Inundated and submerged roads should not be assessed until flood waters have receded to ensure safety

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and allow time for saturated soil to dry out. Allowing adequate time for saturated soil to dry out is necessary

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to effectively determine if eligible surface damage has occurred. If the waters have not receded prior to the

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deadline, FEMA may approve a time extension for those sites. Applicants must inform FEMA if there are

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roadways that experience inundation from closed basin flooding that may be submerged indefinitely due to

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water not being able to drain (see Chapter 8: *Closed Basin Flooding* for additional information).

1161

Grouping Impacts into Projects

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This section defines logical grouping of work and damage.¹⁰¹ FEMA and the recipient work with the applicant

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to identify impacts, facilities, and sites that can be combined into one project. This is a two-step process: 1)

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create groups based on categories of work and facility types and 2) identify sites or facilities that should be

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formulated into separate projects.

1166

Facilities under the authority of other federal agencies or those that are ineligible for PA (e.g., facilities not in

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use at the time of the incident in accordance with [Chapter 4:II.C. Inactive or Partially Inactive Facility](#)) must

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not be formulated in a project. The applicant can either withdraw these sites and facilities from its Impact

⁹⁹ 44 C.F.R. § 206.202 (d)(1)(ii).

¹⁰⁰ 44 C.F.R. § 206.202 (f)(2).

¹⁰¹ 44 C.F.R. § 206.201(k).

1169 List or FEMA will issue an ineligibility determination. Logical grouping should never be based on project size
1170 or grant administration considerations.

1171 **Initial Debris Removal Grouping (Category A)**

1172 The bullets below identify debris removal that FEMA initially groups together (each bullet stands for one
1173 initial grouping):

- 1174 ▪ All debris removal from public property;
- 1175 ▪ All debris removal from waterways;
- 1176 ▪ All debris removal from private non-commercial property;
- 1177 ▪ All debris removal from commercial property; and
- 1178 ▪ All debris removal from private roads.

1179 **Initial Emergency Protective Measures Grouping (Category B)**

1180 The bullets below identify emergency protective measures that FEMA initially groups together (each bullet
1181 stands for one initial grouping):

- 1182 ▪ All private property demolition;
- 1183 ▪ All emergency response activities (except those conducted on private property);
- 1184 ▪ Any emergency protective measures performed on private property;
- 1185 ▪ All emergency protective measures that involve facility construction or repairs; and
- 1186 ▪ Each individual temporary facility.

1187 **Initial Permanent Work Grouping (Categories C-G)**

1188 The bullets below identify damaged facilities that FEMA initially groups together (each bullet stands for one
1189 initial grouping). The list is based on infrastructure categories.

1190 **TRANSPORTATION:**

- 1191 ▪ All roads, bridges, low water crossings, and culverts;
- 1192 ▪ All mass transit facilities such as subways and railways;
- 1193 ▪ All airports; and
- 1194 ▪ All ports and harbors.

1195 **WATER CONTROL:**

- 1196 ▪ All dams and reservoirs;
- 1197 ▪ All canals, drainage channels, ditches, acequias and aqueducts;
- 1198 ▪ All stormwater retention and detention basins; and
- 1199 ▪ All shoreline protection facilities (levees, berms, seawalls, sand revetments, etc.).

1200 **EDUCATION:**

- 1201 ▪ All school campuses.

1202 **HOUSING:**

- 1203 ▪ All public housing campuses.

1204 **HEALTH:**

- 1205 ▪ All hospital campuses.

1206 **EMERGENCY SERVICE FACILITIES:**

- 1207 ▪ All police, fire, emergency operation centers, etc.

1208 **OTHER GOVERNMENT FACILITIES:**

- 1209 ▪ All courthouses, prisons, administrative buildings, and other non-emergency buildings.

1210 **ENERGY:**

- 1211 ▪ All power generation facilities and plants, including all wind turbines, generators, substations, and other facilities within the confines of the plant;
- 1212
- 1213 ▪ Entire power transmission and distribution system; and
- 1214 ▪ Entire natural gas transmission and distribution system.

1215 **WATER/WASTEWATER:**

- 1216 ▪ All water and wastewater treatment plants;
- 1217 ▪ Entire water distribution system;
- 1218 ▪ Entire wastewater collection system; and
- 1219 ▪ Entire irrigation system.

1220 **COMMUNICATIONS/INFORMATION TECHNOLOGY:**

- 1221 ▪ All communication systems.

1222 **NATURAL AND CULTURAL RESOURCES:**

- 1223 ▪ All parks, golf courses, and fish hatcheries;
- 1224 ▪ All beaches;
- 1225 ▪ All cemeteries, tribal burial grounds, and sacred sites; and
- 1226 ▪ All libraries, museums, and art galleries

1227 FEMA includes administrative and support facilities at a site in the same project as the primary facility.
 1228 Applicants must provide each damaged facility as a separate impact, whether ancillary or primary. FEMA
 1229 groups administrative and support facilities with the primary facility using the site identifier and other
 1230 information provided by the applicant in the Impact List. Administrative and support facilities may include
 1231 but are not limited to: buildings, outside structures (e.g., maintenance and storage sheds, restroom facilities,
 1232 bath houses, pumping stations, etc.), communication towers and antennas, contents, supplies, equipment,
 1233 vehicles, fences, parking lots, stairs, ramps, access roads, runways, signage, lighting, sidewalks, gutters,
 1234 ditches, guard rails, integral ground, catch basins, outfall structures, piers, docks, trails, benches, picnic
 1235 tables, swimming pools, golf courses, ball fields, etc. Note that for PNPs, not all support facilities are eligible.
 1236 See Chapter 3 for additional information on evaluating PNP facility eligibility.

1237 Final Grouping

1238 After initially grouping sites and facilities into one project, FEMA identifies sites or facilities that need to be
 1239 separated from the initial grouping and formulated into separate projects. Sites or facilities that need to be
 1240 separated include those that:

- 1241 ▪ Are anticipated to require complex EHP reviews (see Chapter 10: *Environmental and Historic*
 1242 *Preservation* for more information on EHP review and considerations);
- 1243 ▪ Are in a Special Flood Hazard Area;
- 1244 ▪ Need funding for Architectural/Engineering design or studies to determine the method of restoration for
 1245 the facility (in these cases, FEMA amends the project with the facility Scope of Work (SOW) and cost
 1246 once the repair is determined – the facility is not captured on a separate project);
- 1247 ▪ Have 100% of all the work completed (work on the same facility must not be separated even if some of
 1248 the work is complete and other work is not complete. Only a facility for which all work is complete should
 1249 be separated from a facility that does not have all work complete);
- 1250 ▪ Are complex and require specialized technical support for project formulation, such as significantly
 1251 damaged wastewater treatment plants, dams, hospitals, or schools;
- 1252 ▪ Potentially have ineligible work;
- 1253 ▪ Would make a project too burdensome to review due to the number of sites and facilities combined
 1254 (consider separating into two projects or creating separate projects based on geographical locations);
 1255 and/or
- 1256 ▪ The applicant and FEMA agree there are specific circumstances that make it illogical to combine a site or
 1257 facility with other sites or facilities.

1258 PNP applicants should also separate critical service facilities into separate projects from noncritical service
 1259 facilities so that projects with critical service facilities are not delayed pending the SBA determination
 1260 described in Chapter 4: *Small Business Administration Loan Requirement*.

1261 Building Code and Floodplain Management Administration and Enforcement 1262 Activities Grouping (Category I)

1263 All activities eligible under the Disaster Recovery Reform Act (DRRA) Section 1206, building code and
 1264 floodplain management ordinance administration and enforcement should be grouped within a project.

1265 Grant Management Activities Grouping (Category Z)

1266 All activities eligible under the Disaster Recovery Reform Act (DRRA) Section 1215 and FEMA's Management
 1267 Cost Interim Policy, should be grouped within a project.

Chapter 6: Cost Eligibility

1268

1269 This chapter provides information relating to PA cost eligibility. Not all costs arising from the incident are
 1270 eligible for reimbursement through the PA Program. To be eligible, costs must meet the criteria described in
 1271 this chapter. Additionally, applicants must retain cost, financial, procurement, real property and equipment
 1272 records, programmatic records, supporting documents, and all other records that are considered pertinent to
 1273 the grant, for a period of 3 years from the date the final expenditure of funds is documented. In the case of
 1274 litigation, an audit, or any other claim that would cause action is started before the 3-year period expires, the
 1275 records must be retained until a resolution is reached and final action taken.

1276 Eligibility Requirements

1277 Costs are the final component evaluated for eligibility, as shown in Figure 8. *Cost Eligibility*, this criteria
 1278 applies to all costs claimed. Not all costs incurred as a result of the incident are eligible. To be eligible, costs
 1279 must be:

- 1280 ▪ Directly tied to the performance of eligible work;
- 1281 ▪ Adequately documented, substantiated, or certified;¹⁰²
- 1282 ▪ Reduced by all applicable credits, such as insurance proceeds
 1283 and salvage values;¹⁰³
- 1284 ▪ Authorized and not prohibited under federal or SLTT
 1285 government laws or regulations;
- 1286 ▪ Consistent with the applicant's internal policies, regulations, and procedures that apply uniformly to both
 1287 federal awards and other activities of the applicant; and
- 1288 ▪ Necessary and reasonable to accomplish the work properly and efficiently.¹⁰⁴

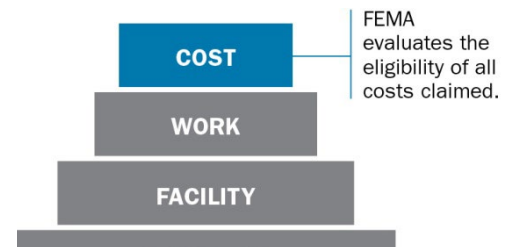


Figure 8. Cost Eligibility

1289 Reasonable Costs

1290 A cost is reasonable if, in its nature and amount, it does not exceed that which would be incurred by a
 1291 prudent person under the circumstances prevailing at the time the applicant makes the decision to incur the
 1292 cost.¹⁰⁵

1293 For projects completed with contracted resources, FEMA conducts a reasonable cost analysis as described
 1294 below if applicants submit cost claims based on non-competitive bids or contracts, time and materials
 1295 contracts, or cost-plus-percentage-of-cost or percentage-of-construction contracts. For Large Projects, FEMA
 1296 also conducts a reasonable cost analysis when the contract selection was noncompliant with the applicable
 1297 procurement requirements, even though there may have been price competition. For projects completed

¹⁰² 2 C.F.R. § 200.403(g).

¹⁰³ Stafford Act § 312, 42 U.S.C. § 5155, and 2 C.F.R. § 200.406.

¹⁰⁴ 2 C.F.R. § 200.403.

¹⁰⁵ 2 C.F.R. § 200.404.

1298 with the applicant's own resources (force account), FEMA only conducts a reasonable cost analysis for Large
1299 Projects.

1300 Reasonable Cost Analysis

1301 FEMA performs a preliminary review of the applicant's information and documentation to assess the
1302 complexity of the project and expertise required to complete a reasonable cost analysis. If specialized
1303 expertise is required, a subject matter expert with the appropriate specialized skills, knowledge, experience,
1304 or capability in the appropriate field such as engineering, architecture, or cost estimating conducts the
1305 analysis.

1306 FEMA determines reasonableness by evaluating whether the:

- 1307 ▪ Cost is of a type generally recognized as ordinary and necessary for the type of facility or work.¹⁰⁶ FEMA
1308 evaluates the skill level and level of effort necessary to complete the required activity. If the type of
1309 employee or skill level is not appropriate for the specific task, FEMA limits PA funding to a rate based on
1310 the appropriate employee type or skill level. For complex projects that require staff with a higher level of
1311 technical proficiency and experience, FEMA determines PA funding appropriately. If the level of effort
1312 exceeds that necessary to complete a specific task, FEMA limits PA funding based on an appropriate
1313 level of effort.
- 1314 ▪ Cost is reasonable and necessary for the type of work being performed. FEMA determines whether the
1315 number of hours claimed are reasonable and necessary by evaluating:
 - 1316 ○ The severity of the incident;
 - 1317 ○ Whether the work was performed at a time when it was necessary to work extraordinary hours based
1318 on the circumstances of the incident;
 - 1319 ○ The function of the employee for which the hours are claimed; and
 - 1320 ○ The number of consecutive hours the employee worked.
- 1321 ▪ Applicant participated in sound business practices and arm's length bargaining, ensuring parties to a
1322 transaction are independent of each other, without familial ties or shared interests and on equal footing
1323 without one party having control over the other.¹⁰⁷
- 1324 ▪ Individuals concerned acted with prudence under the circumstances considering its responsibility to the
1325 applicant, its employees, its students or membership, the public, and the federal government.¹⁰⁸ If
1326 exigent or emergency circumstances existed, FEMA evaluates the period costs were incurred relative to
1327 the reasonable duration of the special circumstances.
- 1328 ▪ Applicant deviated from its established practices and policies.¹⁰⁹ FEMA generally considers the
1329 applicant's own labor, equipment, and supply costs reasonable provided the costs are consistent with
1330 the entity's policies including, but not limited to, pay rates, labor policies, and cost schedules utilized
1331 during its normal operations.
- 1332 ▪ Applicant complied with procurement requirements (see Chapter 6: *Procurement and Contracting*
1333 *Requirements*). FEMA considers contract costs reasonable when the applicant adheres to full and open

¹⁰⁶ 2 C.F.R. § 200.404(a).

¹⁰⁷ 2 C.F.R. § 200.404(b).

¹⁰⁸ 2 C.F.R. § 200.404(d).

¹⁰⁹ 2 C.F.R. § 200.404(e).

1334 competition under applicable federal procurement requirements, and the scope of services or work in
1335 the contract and level of effort is consistent with respect to the eligible SOWs.

- 1336 ○ Cost or Price Analysis: The cost or price analysis is one component of documentation that FEMA
1337 reviews as part of its evaluation of reasonable costs. If the applicant does not submit a cost or price
1338 analysis, FEMA evaluates the elements that would have been part of such analysis.¹¹⁰
- 1339 ○ Selection Criteria: FEMA also evaluates whether the applicant selected the lowest responsible bidder
1340 based on the selection criteria to determine reasonableness. If the applicant selected a contractor
1341 with a higher bid than others, it must substantiate its selection based on the selection criteria set
1342 forth in its Request for Proposal (RFP).

- 1343 ■ Cost is comparable to the current market price for similar goods or services in the same geographical
1344 area.¹¹¹ FEMA makes its determination based on one or more of the following:

- 1345 ○ Historical documentation (previous contracts, invoices, or other documentation);
- 1346 ○ FEMA may compare costs to the applicant's historical costs for similar SOW or items. FEMA
1347 considers inflation and other factors, such as code or standard changes, availability of in-kind
1348 construction material, quantity, delivery schedules, and the economy. FEMA's Cost Estimating
1349 Format (CEF) employs a nationally recognized economic inflation factor;
- 1350 ○ Average costs in the area;
- 1351 ○ Weighted average unit pricing: FEMA may determine the average costs in the area using weighted
1352 average unit prices. These are comprised of the average costs of historical bid tabulations and
1353 related specifications from competitive bid pricing solicitations respective to the area and usually
1354 includes all factors required to bid public works projects, such as performance bonds, bid bonds,
1355 overhead and profit, and general conditions. The applicant or respective state, territorial, or regional
1356 agency, such as the state's department of transportation may provide weighted average unit pricing
1357 and related specifications for FEMA's review.
 - 1358 – Other applicants' project costs: FEMA may compare the costs with other applicants' projects of
1359 similar SOW and similar circumstances, such as event impacts, magnitude, comparable
1360 shortages, market factors, and any other unique circumstances that may impact either of the
1361 costs.
- 1362 ○ Published unit costs from national cost estimating databases. When using this method, FEMA
1363 confirms that the cost publication is current and prepares the estimate using its CEF and the
1364 appropriate locality adjustment factor.
 - 1365 – Industry cost estimating resources: When appropriate local data cannot be developed or
1366 obtained, FEMA uses industry standard construction cost estimating resources to prepare an
1367 estimate against which to evaluate reasonableness of the applicant's actual costs. These costing
1368 methods include, but may not be limited to, RS Means, BNi Costbooks, Marshall and Swift, and
1369 Sweet's Unit Cost Guide, which are widely accepted in the industry and available for nationwide
1370 use.
 - 1371 – Federal, state, or territorial unit costs: When industry standard construction cost estimating
1372 resources do not provide work items that are appropriate or applicable to the construction
1373 activities required to complete the project, FEMA considers local cost data from other federal

¹¹⁰ FEMA's PDAT Field Manual, Chapter 9, provides information on how to conduct a cost or price analysis
(https://www.fema.gov/sites/default/files/2020-07/fema_procurement-disaster-assistance-PDAT_field-manual.pdf).

¹¹¹ 2 C.F.R. § 200.404(c).

- 1374 agencies (OFA) or state or territorial agencies responsible for construction of similar facilities in
1375 or near the locality.
- 1376 – FEMA Cost Codes: FEMA maintains regional and national unit prices (cost codes). FEMA cost
1377 codes may be used when a cost is not found in other published unit costs or if the cost codes are
1378 otherwise more applicable than other published costs, such as for force account equipment.
- 1379 ○ If FEMA finds the costs claimed are not reasonable, FEMA may disallow all or part of the costs
1380 associated with the project by adjusting eligible funding based on what costs (if any) are deemed
1381 reasonable.¹¹² When determining the reasonable amount, FEMA may use the least-cost alternative,
1382 the lowest bid received by the applicant, the pricing of another applicant's properly procured and
1383 selected contractor, or a FEMA-developed cost estimate based on industry standard cost estimating
1384 resources
- 1385 ■ The following factors or other extenuating circumstances existed and caused escalation in costs:
- 1386 ○ Shortages in equipment, materials, supplies, labor, or contractors: When escalating costs are due to
1387 shortages, FEMA considers whether the applicant's work continued beyond the period of shortages
1388 and whether there was an opportunity for the applicant to obtain more reasonable pricing.
- 1389 ○ Project-specific complexities: Complexities may include environmental or historic preservation
1390 compliance requirements, remote access or location, provision of a unique service with few
1391 providers, or elements requiring an extraordinary level of effort.
- 1392 ○ Economy of Scale: FEMA considers the amount of work that may impact the unit price (for example,
1393 smaller projects may have higher rates and larger projects may have lower rates due to various
1394 efficiencies that are realized with larger projects. Additionally, when hauling is involved, such as with
1395 debris projects, some projects may have longer haul routes due to disposal site locations or detours
1396 for obstacles like road blockages).
- 1397 ○ Extraordinary Labor Costs: FEMA evaluates whether increased labor costs were required under the
1398 circumstances of the incident. FEMA looks at the severity of the incident, the magnitude and the
1399 difficulty of the work, the labor hours claimed for the employees performing the work, and the
1400 function of the employees performing the labor, against the circumstances of the incident to
1401 determine if all labor costs were necessary to complete the work and if the costs charged for the
1402 labor were reasonable.
- 1403 ○ Applicant's Justification: When a reasonable cost analysis has been conducted and costs appear
1404 high for a project, FEMA reviews the applicant's justification to determine whether there are any
1405 additional factors that justify the higher cost as a reasonable amount.

1406 Applicant (Force Account) Labor

1407 FEMA refers to the applicant's personnel as "force account." FEMA reimburses force account labor based on
1408 actual hourly rates plus the cost of the employee's actual fringe benefits. FEMA calculates the fringe benefit
1409 cost based on a percentage of the hourly pay rate. Because certain items in a benefit package are not
1410 dependent on hours worked (e.g., health insurance), the percentage for overtime is usually different than the
1411 percentage for straight-time pay. Fringe benefits provided under established written policies may include:

- 1412 ■ Holiday leave;
- 1413 ■ Accrued vacation leave;

¹¹² 2 CFR § 200.339.

- 1414 ▪ Sick leave;
- 1415 ▪ Social security matching;
- 1416 ▪ Medicare matching;
- 1417 ▪ Unemployment insurance;
- 1418 ▪ Workers compensation;
- 1419 ▪ Retirement;
- 1420 ▪ Health insurance;
- 1421 ▪ Life and disability insurance; and/or
- 1422 ▪ Administrative leave.

1423 The applicant must submit the following required documentation to support costs claimed for labor:

1424 **Table 5. Required Documentation for Labor Costs**

For Small Projects	For Large Projects ¹¹³
<p>Itemized cost summary including actual or estimated costs:</p> <ul style="list-style-type: none"> ▪ Number of employees; ¹¹⁴ ▪ Total budgeted hours; ▪ Total unbudgeted hours; and ▪ Average straight-time pay rate with fringe benefits;¹¹⁵ and ▪ Average overtime pay rates with fringe benefits.¹¹⁶ 	<p>Pay policy; Itemized cost summary including estimated costs, or actual costs for completed work, for each employee:</p> <ul style="list-style-type: none"> ▪ Name ▪ Job title and function; ▪ Type of employee (i.e., full-time exempt, full-time non-exempt, part-time, temporary, etc.); ▪ Date and hours worked; ▪ Pay rate and fringe benefit rate; ▪ Description of work performed with daily logs/activity reports; ¹¹⁷ ▪ Timesheets; ¹¹⁸ and ▪ Fringe benefit calculations.

¹¹³ FEMA utilizes an attribute-based sampling approach, following the GAO Financial Audit Manual, for verifying supporting documentation for PA projects therefore FEMA may select a representative sample rather than reviewing all documentation. See the [Public Assistance Sampling Procedure](#)

¹¹⁴ Estimates may be calculated based on actual or estimated total number of staff and total hours with average pay rates. Average rates may only be used for employees at similar pay grades and same category of employee (i.e., permanent full-time vs. part-time vs. temporary hire).

¹¹⁵ Fringe benefits are calculated based on a percentage of the hourly pay rate.

¹¹⁶ Ibid.

¹¹⁷ FEMA utilizes an attribute-based sampling approach, following the GAO Financial Audit Manual, for verifying supporting documentation for PA projects therefore FEMA may select a representative sample rather than reviewing all documentation. See the [Public Assistance Sampling Procedure](#)

¹¹⁸ Ibid.

1425 Labor Policies

1426 FEMA determines the eligibility of employee labor costs based on the applicant's pre-disaster written labor
1427 policy, provided the policy:

- 1428 ▪ Does not include a contingency clause that payment is subject to federal funding;
- 1429 ▪ Is applied uniformly regardless of a Presidential declaration; and
- 1430 ▪ Has set non-discretionary criteria for when the applicant activates various pay types.

1431 If these requirements are not met, FEMA limits PA funding to the applicant's non-discretionary, uniformly
1432 applied pay rates. Labor cost eligibility is tied to the labor policy in effect prior to the start date of the incident
1433 period. "Pre-disaster" means "prior to the incident start date identified in the approved presidential disaster
1434 declaration" in the context of all PA program authorities and guidance, not just labor policies.

1435 Eligibility Criteria for Reimbursement of Employee Labor Costs

1436 FEMA's criteria for reimbursing employee labor costs differ based on the category of work the employee
1437 performed, whether the employee's pay rate is straight time or overtime, and whether the applicant's
1438 employee labor costs are budgeted or unbudgeted. Note that costs associated with the salary and benefits
1439 of an employee on leave, regardless of the nature of the leave (e.g., sick leave) and regardless of whether
1440 the employee has leave to use, are ineligible. Administrative leave or similar labor costs incurred for
1441 employees sent home or told not to report due to emergency conditions are ineligible.

1442 Terminology: Applicant (Force Account) Labor Terms

1443 **Full-time** and **part-time** refer to the normal number of hours worked by an employee per pay period, as
1444 set by the applicant's [1] eligible pre-disaster written labor policy or [2] non-discretionary, uniformly
1445 applied pay rates.

1446 **Straight-time** is an employee's regular pay rate when working normal hours. **Overtime** is an
1447 employee's pay rate when working beyond normal hours. This applies whether the employee is full-
1448 time or part-time. Pay rates are set by the applicant's [1] eligible pre-disaster written labor policy or [2]
1449 non-discretionary, uniformly applied pay rates. **Exempt** employees are not subject to the overtime pay
1450 requirements set forth in the Fair Labor Standards Act.

1451 **Budgeted** employee labor costs are the costs an applicant budgets for and incurs regardless of a
1452 disaster occurring. **Unbudgeted** employee labor costs are the costs an applicant does not budget for
1453 and incurs only as the direct result of a disaster.

1454 For Permanent Work, categories C-G, straight-time and overtime pay are eligible for budgeted and
1455 unbudgeted employee labor costs.¹¹⁹ For category I, straight-time pay is limited to extra hires, while overtime
1456 is eligible.¹²⁰

¹¹⁹ Stafford Act § 406(a)(2)(C), 42 U.S.C. § 5172; 44 C.F.R. § 206.228(a)(2)(i).

¹²⁰ Stafford Act § 406(a)(2)(c), 42 U.S.C. § 5172.

1457 For Emergency Work, categories A-B, straight-time labor costs for budgeted employees are generally
 1458 ineligible, while overtime labor costs are eligible.¹²¹ However, straight time labor costs for budgeted
 1459 employees are eligible pursuant to Alternative Procedures, Stafford Act Section 428, where the employee is
 1460 performing eligible category A debris removal work.¹²² For unbudgeted employees performing Emergency
 1461 Work, costs for both straight-time and overtime labor hours are eligible.

1462 **Table 6. Emergency Work Labor Eligibility**

Type of Employee Hours	Eligible Overtime?	Eligible Straight-Time?
Budgeted Employee Hours (Debris Removal)		
Permanent employee	Yes	Yes
Part-time or seasonal employee working during normal hours or season of employment	Yes	Yes
Budgeted Employee Hours (Emergency Protective Measures)		
Permanent employee	Yes	No
Part-time or seasonal employee working during normal hours or season of employment	Yes	No
Unbudgeted Employee Hours (Debris & Emergency Protective Measures)		
Reassigned employee funded from external source	Yes	Yes
Essential employee called back from furlough	Yes	Yes
Temporary employee hired to perform eligible work	Yes	Yes
Part-time or seasonal employee working outside normal hours or season of employment	Yes	Yes

1463 **REASSIGNED EMPLOYEES**

1464 Costs for employees reassigned to perform work that is not part of the employee’s normal job functions are
 1465 eligible. For example, a police officer may clear debris which FEMA provides PA funding based on the
 1466 reassigned employee’s normal pay rate, not the pay level appropriate to the work, because the applicant’s
 1467 incurred cost is the employee’s normal pay rate.

1468 **REASSIGNED EMPLOYEES FUNDED FROM AN EXTERNAL SOURCE**

1469 Costs for straight-time hours of an employee funded from an external source (such as a grant from a federal
 1470 agency or statutorily dedicated funds) are eligible if the employee is reassigned to perform eligible

¹²¹ 44 C.F.R. § 206.228(a)(2)(iii)

¹²² Stafford Act § 428(e)(2)(D), 42 U.S.C. § 5189f.

1471 Emergency Work that the external source does not fund. FEMA must confirm that no duplication of benefits
1472 exists prior to approval.

1473 **BACKFILL EMPLOYEES**

1474 The applicant may need to temporarily replace an employee who is responding to the incident. If an
1475 employee is unable to perform normal duties due to performing eligible Emergency Work, certain costs
1476 associated with backfilling the employee are eligible, even though the backfilling employee is not performing
1477 eligible work. The eligibility of labor costs for a backfill employee is tied to an employee unable to perform
1478 normal duties because they are performing eligible Emergency Work, not because they are unable to work
1479 (e.g., on leave, furloughed, etc.).

1480 Only costs for overtime hours worked by the backfill employee are eligible in the following scenarios:

- 1481 ▪ Backfill employee is budgeted;
- 1482 ▪ Backfill employee is called in from scheduled leave.

1483 Costs for straight-time hours worked by the backfill employee in the scenarios above are not eligible, even as
1484 a short-term increased operating expense.

1485 If the backfill employee is not a budgeted employee, costs for straight-time hours worked by the backfill
1486 employee are eligible if the employee is a:

- 1487 ▪ Contracted or temporary employee; or
- 1488 ▪ Permanent employee called in on a normally scheduled day off (weekend or other off day).

1489 Costs from backfilling labor are only eligible if:

- 1490 ▪ the costs are for a limited period of time based on the exigency of the circumstances; and
- 1491 ▪ the Applicant tracks and documents the additional costs.

1492 **ESSENTIAL EMPLOYEES CALLED BACK FROM FURLOUGH**

1493 Costs for straight-time hours of essential employees called back to work from a budget-related furlough due
1494 to the declared incident is eligible if the costs are not budgeted.

1495 **SUPERVISORS**

1496 Second-level supervisors and above (e.g., commissioners, mayors, department directors, police and fire
1497 chiefs) are usually exempt employees.¹²³ Therefore, overtime costs related to these types of employees are
1498 ineligible, unless the applicant:

- 1499 ▪ Demonstrates that the employee was directly involved with a specific project;
- 1500 ▪ Normally charges that individual's time to specific projects regardless of federal funding; and
- 1501 ▪ Incurs overtime costs for the employee in accordance with a labor policy that meets the criteria in
1502 Chapter 6: *Labor Policies*.

¹²³ These employees are exempt from the overtime pay requirements set forth in the Fair Labor Standards Act.

1503 **OTHER**

1504 FEMA may provide PA funding for extraordinary costs paid on an hourly basis (such as call-back pay, night-
1505 time and weekend differential pay, and hazardous duty pay) for essential employees to perform eligible
1506 Emergency Work if costs are paid in accordance with a pre-disaster written labor policy that meets the
1507 criteria above. All other PA Program eligibility requirements must be met.

1508 FEMA considers bonuses and incentive pay to be discretionary rewards for an employee's performance
1509 rather than premium pay associated with and required for the actual hours worked. Bonuses and incentive
1510 pay are not eligible even when related to hazardous situations caused by the declared incident as those
1511 payments are not directly tied to and necessary for the performance of eligible work.

1512 Administrative leave or similar labor costs incurred for employees sent home or told not to report due to
1513 emergency conditions are ineligible.

1514 **STANDBY TIME**

1515 FEMA may provide PA funding for labor costs related to intermittent standby time for staff conducting eligible
1516 evacuation or sheltering, search and rescue, or emergency medical care. All of the following criteria must be
1517 met:

- 1518 ▪ Standby use and pay are consistent with the applicant's labor policy (or contractual obligation based on
1519 a labor agreement) and consistent with its practice in non-federally declared incidents OR a contract or
1520 union agreement that requires payment for standby time;
- 1521 ▪ The standby time occurred when it was necessary to have resources available to conduct the respective
1522 life-saving action;
- 1523 ▪ The number of hours and individuals were reasonable and necessary based on the number of resources
1524 required;
- 1525 ▪ The employee was conducting the respective life-saving action; and
- 1526 ▪ All other labor cost eligibility criteria were met.

1527 Examples of when FEMA may reimburse labor costs for standby time include, but are not limited to:

- 1528 ▪ When bus drivers are deployed to transport evacuees;
- 1529 ▪ When first responders are deployed for the purpose of evacuating or providing emergency medical care
1530 to survivors in order to save lives; and
- 1531 ▪ When a contract or union agreement requires payment for standby time.

1532 Additionally, the applicant may be required to pay firefighter costs from portal-to-portal, which may result in
1533 paying for 24-hour shifts with periods of rest. FEMA will reimburse costs based on such requirements. In
1534 these instances, FEMA limits its reimbursement to costs and timeframes that are reasonable and necessary,
1535 not to exceed 14 calendar days from the start of the incident period. The applicant must provide
1536 documentation to support the need for, and provision of, continuous support.

1537 Standby time is separate and distinct from pre-positioning resources, which is addressed in Chapter 7: *Pre-*
1538 *positioning Resources*.

1539 Applicant-Owned and Purchased Equipment

1540 FEMA provides PA funding for the use of applicant-owned (force account) equipment, including permanently
 1541 mounted generators, based on hourly equipment rates.¹²⁴ FEMA may provide PA funding based on mileage
 1542 for vehicles, if the mileage is documented and less costly than hourly rates.

1543 There are instances when the applicant does not have sufficient equipment to effectively respond to an
 1544 incident. If the applicant purchases equipment that it justifiably needs to respond effectively to the incident,
 1545 FEMA provides PA funding for both the purchase price (subject to disposition requirements as specified in
 1546 Chapter 6: Disposition of Equipment and Supplies and either:

- 1547 ▪ The use of the equipment based on equipment rates; or
- 1548 ▪ The actual fuel and maintenance costs.

1549 FEMA only applies equipment rates to the time the applicant is actually operating equipment. Although costs
 1550 associated with transporting equipment (e.g., labor and equipment costs used to transport equipment) to an
 1551 eligible site are eligible, costs for standby time (time spent on hold or in reserve) are ineligible unless the
 1552 equipment operator uses the equipment intermittently for more than half of the working hours for a given
 1553 day. In this case the intermittent standby time is eligible.

1554 The applicant should submit the following to support applicant-owned or purchased equipment costs
 1555 claimed:

1556 **Table 7. Documentation Requirements for Applicant-Owned or Purchased Equipment Costs**

For Small Projects	For Large Projects
Applicant-owned equipment: Itemized cost summary of actual or estimated costs broken out by type of equipment: <ul style="list-style-type: none"> ▪ Total usage hours; and ▪ Total cost. Purchased equipment: Itemized cost summary including of actual or estimated costs broken out by type of equipment: <ul style="list-style-type: none"> ▪ Total cost. 	Applicant-owned equipment: Itemized cost summary including of actual costs, or estimated costs for completed work, broken out by type of equipment: <ul style="list-style-type: none"> ▪ Type of equipment and attachments used, including year, make, model, size, capacity, horsepower, and wattage (as applicable); ▪ Location(s) or site(s) used; ▪ Equipment code (if using FEMA rates); ▪ Schedule of rates, including rate components (if not using FEMA rates); and ▪ Operator name with date and hours used each day. Purchased equipment: Itemized cost summary including of actual or estimated costs broken out by type of equipment: <ul style="list-style-type: none"> ▪ Invoices or receipts.¹²⁵

1557 FEMA provides PA funding for force account equipment usage based on FEMA or SLTT equipment rates in
 1558 accordance with the specific criteria noted below.

¹²⁴ 44 C.F.R. § 206.228(a)(1).

¹²⁵ FEMA utilizes an attribute-based sampling approach, following the GAO Financial Audit Manual, for verifying supporting documentation for PA projects therefore FEMA may select a representative sample rather than reviewing all documentation. See the [Public Assistance Sampling Procedure](#)

1559 **FEMA Rates**

1560 FEMA publishes equipment rates applicable on a national basis.¹²⁶ FEMA's rate schedule includes any item
 1561 powered by fuel or attached to any item powered by fuel. FEMA develops equipment rates based on all costs
 1562 associated with ownership and operation of equipment (except for operator labor). FEMA equipment rate
 1563 components include depreciation, overhead, equipment overhaul (labor, parts, and supplies), maintenance
 1564 (labor, parts, and supplies), lubrication, tires, ground engaging component (if applicable), and fuel. Because
 1565 the rates include maintenance costs, a mechanic's labor costs to maintain applicant-owned equipment are
 1566 ineligible. Similarly, because the rates include fuel costs, an applicant cannot claim fuel costs in addition to
 1567 FEMA equipment rates.

1568 **State, Tribal, or Territorial Rates**

1569 State, Tribal, or Territorial (STT) rates are established under STT guidelines for use in normal day-to-day
 1570 operations. FEMA provides PA funding based on STT rates up to \$75 per hour.¹²⁷ FEMA only provides PA
 1571 funding for a rate above \$75 per hour if the applicant demonstrates that each of the components of the rate
 1572 is comparable to current market prices.¹²⁸

1573 **Local Rates**

1574 Local rates are those developed under local government guidelines for use in normal day-to-day operations.
 1575 FEMA generally provides PA funding for equipment usage based on the lower of either the local rate or the
 1576 FEMA rate. However, if the local rate is lower, and the applicant certifies that the rate does not reflect all
 1577 actual costs associated with operating the equipment, FEMA may provide PA funding based on the higher
 1578 FEMA rate. FEMA may request that the applicant provide documentation for the basis of its rate. Additionally,
 1579 if the local rate is higher, the applicant must document the basis for that rate and obtain approval from
 1580 FEMA for the higher rate.¹²⁹

1581 If determining the lowest rate for each piece of equipment is overly burdensome because of the number of
 1582 different types of equipment used, or if the applicant prefers, FEMA will reimburse all equipment use based
 1583 on the lower of the two rate schedules, rather than based on a comparison of each individual rate. In these
 1584 cases, the PA Division at FEMA Headquarters determines which schedule of rates is lower.

1585 **Equipment with No Established Rate**

1586 If the applicant uses equipment that has no established SLTT rate, FEMA reimburses that equipment based
 1587 on the FEMA rate.¹³⁰ If FEMA does not have a rate established for the equipment, the applicant may either
 1588 submit a rate for approval or request that FEMA provide a rate. If the applicant submits a rate, it must
 1589 include documentation demonstrating that each component of the rate is comparable to current market

¹²⁶ www.fema.gov/schedule-equipment-rates.

¹²⁷ 44 C.F.R. § 206.228(a)(1)(i).

¹²⁸ Per 44 C.F.R. § 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.

¹²⁹ 44 C.F.R. § 206.228(a)(1)(ii).

¹³⁰ 44 C.F.R. § 206.228(a)(1)(iii).

1590 prices. The rate cannot be based on rental rates as such rates may include cost components, such as profit,
1591 that are above and beyond what is necessary to operate and maintain force account equipment.

1592 **Telecommunications Equipment Purchase**

1593 Applicants may not obligate or expend any FEMA awards, including any new, renewed, or extended purchase
1594 orders, contracts, subcontracts, or similar acquisitions on prohibited systems identified in the National
1595 Defense Authorization Act¹³¹ to:

- 1596 ▪ Procure or obtain any equipment, system, or service that uses covered telecommunications equipment
1597 or services¹³² as a substantial or essential component of any system, or as critical technology of any
1598 system;
- 1599 ▪ Enter into, extend, or renew a contract to procure or obtain any equipment, system, or service that uses
1600 covered telecommunications equipment or services as a substantial or essential component of any
1601 system, or as critical technology of any system; or
- 1602 ▪ Enter into, extend, or renew contracts with entities that use covered telecommunications equipment or
1603 services as a substantial or essential component of any system, or as critical technology as part of any
1604 system.¹³³

1605 Recipients and subrecipients may use PA funding to purchase replacement equipment, system or services.



1606 **Terminology: Covered Telecommunications Equipment**

1607 **Covered telecommunications equipment** refers to telecom or video surveillance equipment or services
1608 produced or provided by an entity reasonably believed to be an entity owned or controlled by, or
1609 otherwise connected to, the government of a covered foreign country.

1610 **Rented or Leased Equipment**

1611 When the applicant rents or leases equipment, FEMA provides PA funding based on the terms of the
1612 agreement. Rental and leasing costs are eligible if:

- 1613 ▪ The applicant performed an analysis of the cost of rented or leasing versus purchasing the
1614 equipment;¹³⁴ and
- 1615 ▪ The total leasing costs do not exceed the cost of purchasing and maintaining equipment during the life
1616 of the eligible project.

¹³¹ 2 CFR 200.216: The head of an executive agency may not expend loan or grant funds to procure, obtain, extend or renew a contract for the equipment, services, or systems prohibited in the National Defense Authorization Act for national security reasons.

¹³² Entities added to this list will be incorporated into the excluded parties list in the System for Award Management (SAM) (www.sam.gov). When a user conducts a search of the excluded parties list, a record will appear describing the nature of the exclusion for any entity identified as covered by this prohibition.

¹³³ Id.

¹³⁴ 2 C.F.R. § 200.318(d).

1617 If the rental or leasing costs exceed the cost of purchasing and maintaining the equipment, FEMA
 1618 determines the amount of eligible costs based on an evaluation of the reasonableness of the costs claimed,
 1619 including whether the applicant acted with prudence under the circumstances at the time it rented or leased
 1620 the equipment.

1621 If the applicant has a rent-to-own or lease-purchase agreement and obtains ownership during completion of
 1622 eligible work, FEMA provides PA funding for the equipment use based on the hourly equipment rate, as
 1623 described in Chapter 6: *Applicant-Owned and Purchased Equipment*. If the applicant completes the eligible
 1624 work prior to obtaining ownership, FEMA provides PA funding based on the cost to lease the equipment.

1625 The applicant must submit the following required documentation to support costs claimed for rented or
 1626 leased equipment:

1627 **Table 8. Required documentation for Rented or Leased Equipment Costs**

For Small Projects	For Large Projects
Itemized cost summary of actual or estimated costs for leased equipment: <ul style="list-style-type: none"> ▪ Total usage days or hours; and ▪ Total cost. 	Itemized cost summary including of actual costs, or estimated costs for completed work, broken out by type of equipment or each piece of leased equipment: <ul style="list-style-type: none"> ▪ Type of equipment, including make, model, size, capacity, horsepower, and wattage (as applicable); ▪ Location or site used; ▪ Dates and hours used (required if lease agreement charges hourly rates); ▪ Rates and total cost; ▪ Vendor and invoice number; ▪ Amount of fuel used (if not included in rental cost); ▪ Lease agreement; and ▪ Invoices or receipts.¹³⁵

1628 Supplies

1629 The cost of supplies, including materials, is eligible if:

- 1630 ▪ Purchased and justifiably needed to effectively respond to and/or recover from the incident; or
- 1631 ▪ Taken from the applicant’s stock and used for the incident.

1632 The applicant must track items taken from stock with inventory withdrawal and usage records.

1633 FEMA provides PA funding for these items based on invoices, if available. If invoices are not available for
 1634 items used from stock, FEMA provides PA funding based on the applicant’s established method of pricing

¹³⁵ FEMA utilizes an attribute-based sampling approach, following the GAO Financial Audit Manual, for verifying supporting documentation for PA projects therefore FEMA may select a representative sample rather than reviewing all documentation. See the [Public Assistance Sampling Procedure](#)

1635 inventory.¹³⁶ If the applicant does not have an established method, FEMA provides PA funding based on
 1636 historical data or prices from area vendors.

1637 FEMA consults with the U.S. Department of Homeland Security Office of Inspector General Emergency
 1638 Management Oversight Team in cases where it has difficulty determining a reasonable value.

1639 The applicant must submit the following to support costs claimed for supplies:

1640 **Table 9. Required documentation for Materials and Supplies**

For Small Projects	For Large Projects
Itemized cost summary including of actual or estimated costs for materials and supplies: <ul style="list-style-type: none"> ▪ Type and quantity; and ▪ Total cost. 	Itemized cost summary including of estimated costs, or actual costs for completed work, for materials and supplies: <p>From Stock:</p> <ul style="list-style-type: none"> ▪ Cost documentation such as original invoices or other historical cost records;¹³⁷ ▪ Inventory records;¹³⁸ ▪ Type of supplies and quantities used; and ▪ Location used.¹³⁹ <p>Purchased:</p> <ul style="list-style-type: none"> ▪ Receipts or invoices;¹⁴⁰ ▪ Quantities used; and ▪ Justification (required if supplies were not used).

1641 **Disposition of Equipment and Supplies**

1642 This section describes disposition requirements when purchased equipment or supplies (including materials)
 1643 are no longer needed for federally funded projects.

1644 In the context of disposition, equipment is any tangible personal property (including information technology
 1645 systems) having a useful life of more than one year and a per-unit acquisition cost that equals or exceeds
 1646 the lesser of the capitalization level established by the applicant for financial statement purposes, or
 1647 \$5,000.¹⁴¹ Tangible personal property that does not fall under this definition of equipment is a supply.¹⁴²

¹³⁶ 2 C.F.R. § 200.453(b).

¹³⁷ FEMA utilizes an attribute-based sampling approach, following the GAO Financial Audit Manual, for verifying supporting documentation for PA projects therefore FEMA may select a representative sample rather than reviewing all documentation. See the [Public Assistance Sampling Procedure](#).

¹³⁸ *ibid.*

¹³⁹ *ibid.*

¹⁴⁰ *ibid.*

¹⁴¹ 2 C.F.R. § 200.1.

¹⁴² *ibid.*



Terminology: Personal and Real Property

1648
1649 **Real property** means land, including land improvements, structures, and appurtenances thereto, but
1650 excludes moveable machinery and equipment.

1651 **Personal property** means property other than real property.

Disposition of Purchased Equipment

1652
1653 In accordance with federal regulations, state and territorial government applicants dispose of equipment in
1654 accordance with state and territorial laws and procedures.¹⁴³ When allowable pursuant to its own laws and
1655 procedures, state and territorial applicants may not be required to compensate FEMA for its share of the
1656 original purchase.

1657 When equipment purchased with PA funding are no longer needed for response to or recovery from the
1658 incident, tribal and local governments and PNP applicants may use the items for other federally funded
1659 programs or projects, provided the applicant informs FEMA.¹⁴⁴

1660 When an individual item of equipment is no longer needed for federally funded programs or projects, tribal
1661 and local governments and PNP applicants must calculate the current fair market value of the individual
1662 item of equipment. The applicant must provide the current fair market value for items that have a current
1663 fair market value of \$5,000 or more and compensate FEMA for its share of the original purchase, based on
1664 the cost share. FEMA applies the requirement by reducing funding by the applicable amount.¹⁴⁵ If the
1665 individual item of equipment has a current fair market value less than \$5,000, FEMA does not reduce the
1666 eligible funding.¹⁴⁶



Terminology: Fair Market Value

1667
1668 **Fair market value** is either the selling price or the advertised price for a similar item in a competitive
1669 market.

1670 Tribal and local governments and PNP applicants must comply with all disposition requirements described in
1671 2 C.F.R. 200.313(e), *Disposition*.

¹⁴³ 2 C.F.R. § 200.313(b).

¹⁴⁴ 2 C.F.R. § 200.313(c).

¹⁴⁵ 2 C.F.R. § 200.313(e)(2).

¹⁴⁶ 2 C.F.R. § 200.313(e)(1).

1672 Disposition of Purchased Supplies

1673 When supplies are no longer needed for federally funded programs or projects, all applicants, including state
1674 and territorial government applicants, must calculate the current fair market value of any unused residual
1675 supplies (including materials) that FEMA funded for any of its projects and determine the aggregate total.

1676 The applicant must provide the current fair market value if the aggregate total of unused residual supplies is
1677 greater than \$5,000 and compensate FEMA for its share of the original purchase, based on the cost share.
1678 FEMA applies this requirement by reducing funding by the applicable amount.¹⁴⁷ If the aggregate total of
1679 unused residual supplies is less than \$5,000, FEMA does not reduce the eligible funding.



1680 Examples: Equipment vs. Supplies

- 1681 ▪ Examples of **equipment** may include: durable medical equipment, hospital beds, ventilators,
1682 refrigerator trucks, coolers, freezers, and information technology systems (which are different than
1683 iPads/laptops). Also, fish in fish hatcheries.
- 1684 ▪ Examples of **supplies** may include: iPads/laptops, personal protective equipment (PPE) such as
1685 N95 and other filtering respirators, surgical masks, gloves, protective eyewear, face shields,
1686 protective clothing, sharps containers, and dry ice.

1687 Disposition for Small Projects

1688 For Small Projects, fair market value and the associated reduction are addressed during project formulation.
1689 To calculate depreciation of fair market value for equipment, the date used to determine when equipment is
1690 no longer needed is based on the work completion deadline. No reduction is taken for disposition of supplies
1691 for Small Projects because the quantity of supplies for which funding is eligible is an amount that is
1692 necessary and reasonable, and the estimate is based on the aggregate unused supplies not exceeding
1693 \$5,000.

1694 Disposition of Real Property

1695 If the applicant acquires or improves real property with PA funds, disposition and reporting requirements
1696 apply when acquired or improved real property is no longer needed for the originally authorized purpose.¹⁴⁸
1697 Recipients and applicants must obtain specific disposition instructions from FEMA.¹⁴⁹

1698 Procurement and Contracting Requirements

1699 FEMA provides PA funding for contract costs based on the terms of the contract or purchase agreement if
1700 the applicant meets federal procurement and contracting requirements. Federal procurement and

¹⁴⁷ 2 C.F.R. § 200.313(e)(2).

¹⁴⁸ 2 C.F.R. §§ 200.311 and 200.329.

¹⁴⁹ 2 C.F.R. § 200.311(c). Recipients and Applicants must obtain specific disposition instructions from FEMA.

1701 contracting requirements for state and territorial government agencies are different than those for tribal and
1702 local government agencies and PNPs.

1703 If an applicant does not comply with federal procurement requirements, FEMA applies an appropriate
1704 remedy in accordance with its authorities.¹⁵⁰ FEMA has determined an appropriate remedy under these
1705 circumstances is to either deny all costs associated with the contract or, if sufficient information is provided
1706 to substantiate a reasonable amount for the eligible work completed, FEMA may reimburse the portion of the
1707 costs it determines are reasonable and allowable based on all available information and documentation
1708 provided. For more information please refer to Chapter 6: *Reasonable Cost Analysis*. In addition to monetary
1709 remedies, FEMA may also take non-monetary actions against the applicant as authorized by 2 C.F.R. §§
1710 200.207 and 200.338.

1711 FEMA's [Procurement Guidance for Recipients and Subrecipients Under 2 C.F.R. Part 200 \(Uniform Rules\)](#)
1712 provides additional details regarding federal procurement and contracting requirements.

1713 **Procurement and Contracting Requirements for State and Territorial Government** 1714 **Entities**

1715 Applicants must comply with federal procurement requirements as a condition of receiving PA funding for
1716 contract costs for eligible work.

1717 **PROCUREMENT**

1718 State and territorial government applicants¹⁵¹ must comply with federal procurement procedures at 2 C.F.R.
1719 § 200.317, which include:

- 1720 ▪ Following the same policies and procedures they would use for procurements with non-federal funds;
1721 and
- 1722 ▪ Complying with the Environmental Protection Agency (EPA) guidelines in 2 C.F.R. § 200.322,
1723 Procurement of recovered materials.

1724 FEMA reviews state or territorial procurement policies or procedures or requests that a state or territorial
1725 attorney certify in writing whether the applicant complied with the state's or territory's procurement policies
1726 and procedures.

1727 **CONTRACTING**

1728 State and territorial government applicants must include required provisions detailed in 2 C.F.R. § 200.327
1729 in all contracts awarded.¹⁵² Some provisions are based on sound contracting practices while others are

¹⁵⁰ 2 C.F.R. § 200.338.

¹⁵¹ See Chapter 3: *State and Territorial Governments* for a description of which Applicants are State or Territorial government entities.

¹⁵² 2 C.F.R. § 200.327.

1730 required by federal law, EO, and regulations. Some provisions do not apply under the PA Program (e.g., Davis
1731 Bacon Act¹⁵³ and Rights to Inventions Clause) while others require verbatim language.

1732 Required contract provisions include:

- 1733 ▪ Remedies Clause;
- 1734 ▪ Termination for Cause;
- 1735 ▪ Termination for Convenience;
- 1736 ▪ Equal Employment Opportunity;
- 1737 ▪ Contract Work Hours and Safety Standards Act;
- 1738 ▪ Homeland Security Acquisition Regulation Class Deviation 15-01 clauses; “Safeguarding of Sensitive
1739 Information” and “Information Technology Security and Privacy Training” for existing and new contracts
1740 and solicitations that have a high risk of unauthorized access to or disclosure of sensitive information;¹⁵⁴
- 1741 ▪ Clean Air Act;
- 1742 ▪ Federal Water Pollution Control Act;
- 1743 ▪ Debarment and Suspension;
- 1744 ▪ Byrd Anti-Lobbying Amendment Clause;
- 1745 ▪ Byrd Anti-Lobbying Amendment Certification; and
- 1746 ▪ Procurement of Recovered Materials.

1747 In addition to the required provisions, FEMA also recommends the following contract provisions be included
1748 in all contract awards:

- 1749 ▪ Changes Clause;
- 1750 ▪ Access to Records;
- 1751 ▪ Department of Homeland Security Seal, Logo, and Flags;
- 1752 ▪ Compliance with Federal Law, Regulations, and EOs Clauses;
- 1753 ▪ No Obligation by Federal Government; and
- 1754 ▪ Program Fraud and False or Fraudulent Statements or Related Acts.

1755 The [FEMA Contract Provisions Template](#) provides the exact language for the provisions that require verbatim
1756 language and provides sample language for some of the other provisions.

1757 Although time and material (T&M) contracts without a ceiling price and cost-plus-percentage-of-cost or
1758 percentage-of-construction contracts may be allowed under state or territorial government standards, the

¹⁵³ The Davis Bacon Act requires “prevailing wage” payment to contracted workers based on the local union wage scale defined by the U.S. Department of Labors. 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.

¹⁵⁴ “Sensitive Information” is defined in Homeland Security Acquisition Regulation clause 3052 204-71, *Contractor Employee Access*, as any information, which if lost, misused, disclosed, or without authorization is accessed, or modified, could adversely affect the national or homeland security interest, the conduct of Federal programs, or the privacy to which individuals are entitled under 5 U.S.C. § 552a (the Privacy Act), but which has not been specifically authorized under criteria established by an Executive Order or an Act of Congress to be kept secret in the interest of national defense, homeland security or foreign policy.

1759 use of these contracts has a high risk of noncompliance with the requirement that all costs be
1760 reasonable.¹⁵⁵

1761 **Procurement and Contracting Requirements for Tribal and Local Government** 1762 **Agencies and Private Nonprofit Organizations**

1763 Tribal and local governments, including tribal recipients, and PNPs¹⁵⁶ must comply with:

- 1764 ▪ Its own documented procurement procedures;
- 1765 ▪ Applicable SLTT government laws and regulations; and
- 1766 ▪ Applicable federal laws and regulations.¹⁵⁷

1767 If a federal requirement is different than the SLTT requirement, or the applicant’s own requirements, it must
1768 use the more restrictive requirement. Additionally, territorial governments should consult their legal counsel
1769 when a project involves a public building or public works facility as the Buy American Act may apply to the
1770 procurement process.

1771 **PRE-PROCUREMENT CONSIDERATIONS**

1772 FEMA encourages tribal and local governments and PNPs to:

- 1773 ▪ Establish or update written procurement procedures that reflect applicable SLTT laws and regulations;¹⁵⁸
1774 and
- 1775 ▪ Maintain required written standards of conduct covering conflicts of interest and governing the
1776 performance of employees who engage in the selection, award, and administration of contracts.¹⁵⁹

1777 Tribal and local governments and PNPs should also create a prequalified list of responsible contractors
1778 identified to possess the qualifications and technical abilities to satisfy the applicant’s potential
1779 requirement.¹⁶⁰ Although not a contract, many entities have prequalified lists that serve as contract
1780 research.

1781 A prequalified contractor is one that the applicant evaluated and determined to be qualified to perform the
1782 work based on capabilities, such as technical and management skills, prior experience, past performance,
1783 and availability. A prequalified contractor is not entitled to a “standby” contract. The applicant must still
1784 conduct full and open competition. The applicant cannot exclude potential bidders or offerors from qualifying
1785 during the solicitation period, even if they were not on the prequalified list.¹⁶¹

¹⁵⁵ 2 C.F.R. § 200.403(a).

¹⁵⁶ See Chapter 3: *Applicant Eligibility* for a description of which Applicants are Tribal or local governments or PNPs.

¹⁵⁷ 2 C.F.R. § 200.318(a).

¹⁵⁸ *Ibid.*

¹⁵⁹ 2 C.F.R. § 200.318(c)(1).

¹⁶⁰ 2 C.F.R. § 200.319(e).

¹⁶¹ *Ibid.*

1786 GENERAL FEDERAL PROCUREMENT REQUIREMENTS

1787 Federal procurement requirements for tribal and local governments and PNPs are found at 2 C.F.R. §
1788 200.318 through 200.327. The requirements include, but are not limited to:

- 1789 ▪ Providing full and open competition¹⁶² (tribal government applicants may provide preference to Indian
1790 organizations or Indian-owned economic enterprises¹⁶³ if the applicant substantiates that it met the
1791 Indian Self-Determination and Education Act requirements).
- 1792 ▪ Conducting the following steps to ensure the use of small and minority businesses, women's business
1793 enterprises, and labor surplus area firms when possible:¹⁶⁴
 - 1794 ○ Place such organizations that are qualified on solicitation lists;
 - 1795 ○ Ensure such organizations are solicited whenever they are potential sources;
 - 1796 ○ Divide total requirements, when economically feasible, into smaller tasks or quantities;
 - 1797 ○ Establish delivery schedules, where the requirement permits, encouraging its participation;
 - 1798 ○ Use the services and assistance, as appropriate, of the SBA and the Minority Business Development
1799 Agency of the Department of Commerce; and
 - 1800 ○ Require prime contractor to conduct the above steps if subcontracting.
- 1801 Note that tribal government applicants using the Indian Self-Determination and Education Assistance Act
1802 preference do not need to separately follow the six socioeconomic steps outlined above.
- 1803 ▪ Performing a cost or price analysis in connection with every procurement action above the simplified
1804 acquisition threshold,¹⁶⁵ including contract modifications. The applicant must make independent
1805 estimates before receiving bids or proposals.¹⁶⁶ Additionally, the applicant must negotiate profit as a
1806 separate element of the price when it performs a cost analysis and for each contract in which there is no
1807 price competition.¹⁶⁷
- 1808 ▪ Evaluating and documenting the contractor's integrity, compliance with public policy, record of past
1809 performance, and financial and technical resources.¹⁶⁸
- 1810 ▪ Ensuring that the contractor was not suspended or debarred.¹⁶⁹
- 1811 ▪ Prohibiting the use of statutorily or administratively imposed SLTT geographic preferences in evaluating
1812 bids or proposals except where expressly encouraged by applicable federal law.¹⁷⁰

¹⁶² 2 C.F.R. § 200.319(a).

¹⁶³ Per the Indian Financing Act of 1974, Pub. L. No. 93-262, § 2(e), 88 Stat 77 (codified as amended at 25 U.S.C. § 1452(f)), an Indian organization is the governing body of any federally recognized Tribe, or an entity established or recognized by the governing body. An Indian-owned economic enterprise is any commercial, industrial, or business activity established or organized by a member of a Federal recognized Tribe for the purpose of profit, provided that such Indian ownership constitutes 51 percent or more of the enterprise.

¹⁶⁴ 2 C.F.R. § 200.321.

¹⁶⁵ The simplified acquisition threshold is set by the Federal Acquisition Regulation at 48 C.F.R. § 2.101. The threshold is adjusted periodically for inflation.

¹⁶⁶ 2 C.F.R. § 200.323(a).

¹⁶⁷ 2 C.F.R. § 200.323(b).

¹⁶⁸ 2 C.F.R. § 200.318(h).

¹⁶⁹ 2 C.F.R. § 200.213.

¹⁷⁰ 2 C.F.R. § 200.319(b).

- 1813
- 1814
- 1815
- Excluding 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.¹⁷¹
- 1816
- Maintaining records to detail the history of the procurement including, but are not limited to:
 - Rationale for the method of procurement;
 - Selection of contract type;
 - Contractor selection or rejection; and
 - The basis for the contract price.¹⁷²
- 1817
- 1818
- 1819
- 1820



Terminology: Procurement Methods & Procurement of Real Property

1822 **Micro-purchase:** purchase of supplies or services where the total cost does not exceed the micro-purchase threshold set by the Federal Acquisition Regulation at 48 C.F.R. Subpart 2.1.

1823

1824 **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 C.F.R. Subpart 2.1.

1825

1826

1827 **Sealed bid:** publicly solicited bid awarded via a firm fixed price contract to the lowest responsive and responsible bidder.

1828

1829 **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.

1830

1831 **Noncompetitive proposal:** solicitation of a proposal from only one source.

1832 See 2 C.F.R. § 200.320 for Federal rules that apply to each individual method.

1833 **Procurement of Real Property:** The purchase or lease of real property is a unique transaction that might not readily allow use of one of the competitive methods of procurement. If the Applicant is unable to conduct a competitive procurement, it may use a noncompetitive method in accordance with the requirements in this section. The appropriate method will depend on the facts and circumstances of each procurement.

1834

1835

1836

1837

PROCUREMENT METHODS

1838 Tribal and local governments and PNPs must use one of the following procurement methods:¹⁷³

1839

- 1840 ▪ Micro-purchase;
- 1841 ▪ Small purchase procedure;
- 1842 ▪ Sealed bid (formal advertising);
- 1843 ▪ Competitive proposal; or
- 1844 ▪ Noncompetitive proposal (sole-sourcing).

¹⁷¹ 2 C.F.R. § 200.319(a).

¹⁷² 2 C.F.R. § 200.318(i).

¹⁷³ 2 C.F.R. § 200.320.

1845 Noncompetitive Procurement

1846 FEMA may reimburse reasonable costs incurred under a contract procured through a noncompetitive
1847 proposal, also referred to as sole-source, only when one or more of the following circumstances apply:

- 1848 ▪ The item is only available from one source;
- 1849 ▪ The public exigency or emergency for the requirement will not permit a delay resulting from competitive
1850 solicitation (this exception to competitive procurement is only for work specifically related to the
1851 circumstance and only while the circumstances exist. Therefore, applicants need to immediately begin
1852 the process of competitively procuring similar goods and services and transition to a competitively
1853 procured contract as soon as the circumstances cease to exist);
- 1854 ▪ FEMA or the recipient expressly authorizes a noncompetitive proposal in response to a written request
1855 from the applicant; or
- 1856 ▪ After solicitation of several sources, competition is determined inadequate.¹⁷⁴



1857 Terminology: Exigent or Emergency Circumstances

1858 **Exigency:** The existence of a need to avoid, prevent or alleviate serious harm or injury, financial or
1859 otherwise, to the applicant.

1860 **Emergency:** The existence of a threat to life, public health or safety, or improved property requiring
1861 immediate action to alleviate the threat.

1862 In instances where applicants submit cost claims based on noncompetitive bids or contracts, time and
1863 materials contracts, or cost-plus-percentage-of-cost or percentage-of-construction contracts, FEMA will
1864 review the project for reasonable cost and procurement and contracting compliance.

1865 For large projects with costs based on noncompetitive procurement, the applicant must identify which of the
1866 four circumstances listed above apply and provide all of the following information, documentation, and
1867 justification:

- 1868 ▪ A brief description of the product or service being procured, including the expected amount of the
1869 procurement;
- 1870 ▪ Explanation of why a noncompetitive procurement is necessary. If there was a public exigency or
1871 emergency, the justification should explain the specific conditions and circumstances that clearly
1872 illustrate why competitive procurement would cause unacceptable delay in addressing the public
1873 exigency or emergency. (Failure to plan for transition to competitive procurement cannot be the basis for
1874 continued use of noncompetitive procurement based on public exigency or emergency);
- 1875 ▪ Length of time the noncompetitive contract will be used for the defined SOW, and the impact on that
1876 SOW should the noncompetitively procured contract not be available for that amount of time (e.g., how
1877 long does the applicant anticipate the exigency or emergency circumstances to continue; how long it will
1878 take to identify requirements and award a contract that complies with all procurement requirements; or
1879 how long it would take another contractor to reach the same level of competence);

¹⁷⁴ 2 C.F.R. § 200.320(f).

- 1880
- 1881
- 1882
- 1883 ▪ The specific steps taken to determine that the applicant could not have used, or did not use, full and
 - 1884 open competition for the SOW (e.g., research conducted to determine that there were limited qualified
 - 1885 resources available that could meet the contract provisions);
 - 1886 ▪ Any known conflicts of interest and any efforts that the applicant made to identify potential conflicts of
 - 1887 interest before the noncompetitive procurement occurred. If the applicant made no efforts, explain why;
 - 1888 and
 - 1889 ▪ Any other justification that applies.
- 1887 If FEMA determines that none of the allowable circumstances existed or did not preclude the applicant from
- 1888 adhering to competitive procurement requirements, FEMA will work with the recipient to identify remedies
- 1889 for non-compliance. However, if FEMA or the recipient determine that non-compliance cannot be remedied
- 1890 by imposing additional conditions, FEMA will disallow all or part of the associated costs.¹⁷⁵



Examples: Exigent vs. Emergency Situations

- 1891
- 1892 ▪ **Exigent Situation:** A tornado impacts a city in June and causes widespread and catastrophic
 - 1893 damage, including damage to a city school. The city wants to repair the school and have it ready
 - 1894 for use by the beginning of the school year in September. The city estimates, based on experience,
 - 1895 that awarding a contract using a sealed bidding process would require at least 90 days, and the
 - 1896 city's engineer estimates that the repair work would last another 60 days. This would extend the
 - 1897 project beyond the beginning of the school year. Rather than conducting a sealed bidding process,
 - 1898 the city—in compliance with state and local law—wants to sole source with a contractor it has
 - 1899 contracted with previously.
 - 1900 ▪ **Emergency Situation:** Severe weather impacts a city and causes widespread and catastrophic
 - 1901 damage, including loss of life, widespread flooding, loss of power, damage to public and private
 - 1902 structures, and millions of cubic yards of debris across the city, leaving majority of the jurisdiction
 - 1903 inaccessible. The city needs to begin debris removal activities immediately to restore access to the
 - 1904 community, support search and rescue operations, power restoration, and address health and
 - 1905 safety concerns.

CONTRACT TYPES

- 1906
- 1907 FEMA reimburses costs incurred by tribal and local governments and PNPs using three types of contract
- 1908 payment obligations: fixed price, cost-reimbursement, and, to a limited extent, T&M. The specific contract
- 1909 types related to each of these are described in FEMA's *Procurement Guidance for Recipients and*
- 1910 *Subrecipients Under 2 C.F.R. Part 200 (Uniform Rules)*.¹⁷⁶
- 1911 Tribal and local governments and PNPs must maintain oversight on all contracts to ensure contractors
- 1912 perform according to the conditions and specifications of the contract and any purchase orders.¹⁷⁷

¹⁷⁵ 2 C.F.R. § 200.338.

¹⁷⁶ www.fema.gov/media-library/assets/documents/96773.

¹⁷⁷ 2 C.F.R. § 200.318(b).

1913 **Time and Material Contracts**

1914 Time and Material (T&M) contracts do not provide incentives to the contractor for cost control or labor
1915 efficiency. Therefore, use of T&M contracts is only allowed if all of the following apply:

- 1916 ▪ No other contract type was suitable;
- 1917 ▪ The contract has a ceiling price that the contractor exceeds at its own risk; and
- 1918 ▪ The applicant maintains a high degree of oversight to obtain reasonable assurance that the contractor is
1919 using efficient methods and effective cost controls.¹⁷⁸

1920 FEMA generally limits the use of T&M contracts to a reasonable timeframe based on the circumstances
1921 during which the applicant could not define a clear SOW. Therefore, the applicant should define the SOW as
1922 soon as possible to enable procurement of a more acceptable type of contract.

1923 Some entities, such as Rural Electrical Cooperatives, provide the materials necessary to restore the facilities
1924 and refer to such contracts as Time and Equipment (T&E) contracts. The limitations and requirements that
1925 apply to T&M contracts also apply to T&E contracts.

1926 **COST-PLUS-PERCENTAGE-OF-COST OR PERCENTAGE-OF-CONSTRUCTION**

1927 In addition to limiting reimbursement to costs that can be determined to be reasonable, FEMA does not
1928 reimburse the increased cost associated with the percentage on a cost-plus-percentage-of-cost calculation
1929 or percentage-of-construction cost method.¹⁷⁹ This type of contract billing is prohibited as it does not provide
1930 incentive to contractors to control costs because the contractor's profit increases as the costs of
1931 performance increase. Instead, it provides a financial interest to the contractor to increase costs so that its
1932 profit increases. FEMA identifies these cost methods by determining whether:

- 1933 ▪ Payment is on a predetermined percentage rate;
- 1934 ▪ The predetermined percentage rate is applied to actual performance costs;
- 1935 ▪ The contractor's total payment amount is uncertain at the time of contracting; and
- 1936 ▪ The contractor's payment increases commensurately with increased performance costs.

1937 **ADDITIONAL CONTRACTING CONSIDERATIONS**

1938 **Pre-Positioned Contracts**

1939 Some applicants have pre-positioned contracts, which are contracts awarded before an incident occurs for
1940 the potential performance of work. These contracts are also referred to as advance or standby contracts.
1941 FEMA may reimburse reasonable costs under a pre-positioned contract if:

- 1942 ▪ It was originally procured in compliance with federal procurement requirements;
- 1943 ▪ The scope of work was adequate to cover the work performed;
- 1944 ▪ The work performed was eligible; and

¹⁷⁸ 2 C.F.R. § 200.318(j).

¹⁷⁹ 2 C.F.R. § 200.323(d).

- 1945 ▪ The contract term covers time when work was performed.

1946 **Cooperative Purchasing**

1947 A cooperative purchasing program is a cooperative arrangement for acquiring goods or services that involves
1948 aggregating the demand of two or more entities to obtain a more economical purchase.¹⁸⁰ Program
1949 membership may provide entities with access to lists of agreements or contracts for goods and services at
1950 pre-negotiated rates or prices. Typically, the member then purchases the goods or services by negotiating
1951 with participating vendors and placing purchase orders or entering into contracts based on the pre-
1952 negotiated rates or prices. FEMA advises against the use of cooperative purchasing programs due to
1953 frequent compliance issues with federal procurement requirements. FEMA provides tools to assist with
1954 [Cooperative Purchasing Programs](#) provides additional information to assist with compliance issues for
1955 procurements above the simplified acquisition threshold. Applicants must document and explain how its use
1956 of the program complied with all procurement requirements.

1957 Piggyback contracting is a type of cooperative purchasing and occurs when one entity assigns the
1958 contractual rights it has in a contract to another entity. FEMA advises against the use of piggyback contracts.
1959 Piggyback contracts are usually not compliant with federal procurement requirements as the SOW pertains
1960 to the needs of a different entity.

1961 **Procurement and Contracting Documentation Requirements**

1962 The applicant must submit the following required documentation to support costs claimed for contract work:

¹⁸⁰ Cooperative purchasing programs are distinguishable from joint procurements. A joint procurement is a method of contracting in which two or more purchasers agree from the outset to use a single solicitation and enter into a single contract with a vendor for the delivery of goods or services. Joint procurements must still comply with Federal procurement requirements. However, FEMA sees fewer compliance issues with joint procurements.

1963 **Table 10. Required documentation for Contract Work Costs**

For Small Projects ¹⁸¹	For Large Projects
<p>Itemized cost summary including of actual or estimated costs for each contractor:</p> <ul style="list-style-type: none"> ▪ Procurement method: <ul style="list-style-type: none"> ○ Competitive; or ○ Non-competitive ▪ Type of contract: <ul style="list-style-type: none"> ○ Fixed; ○ Time and materials; ○ Cost-plus-percentage or percentage of construction; or ○ Other ▪ Total contract award; 	<p>Itemized cost summary including of estimated costs, or actual costs for completed work, for each contractor:</p> <ul style="list-style-type: none"> ▪ Contractor name; ▪ Dates worked; ▪ Billing or invoice number ▪ Amount; and ▪ Description of work performed. <p>Procurement documents, including:</p> <ul style="list-style-type: none"> ▪ Requests for proposals; ▪ Bids; ▪ Selection process; ▪ Procurement policy; ▪ Cost or price analysis; ▪ Contracts and change orders; ¹⁸² ▪ Invoices¹⁸³; and <p>Documentation that substantiates a high degree of contractor oversight (required for T&M contracts), including:</p> <ul style="list-style-type: none"> ▪ Daily or weekly logs¹⁸⁴; or ▪ Records of performance meetings¹⁸⁵.

1964 **Mutual Aid**

1965 When the applicant does not have enough resources to respond to an incident, it may request resources
 1966 from another agency, organization, or jurisdiction through a “mutual aid” agreement. FEMA refers to the
 1967 entity requesting resources as the Requesting Entity. FEMA refers to the entity providing the requested
 1968 resource as the Assisting Entity.

1969 FEMA provides PA funding to the Requesting Entity as it is legally responsible for the work. FEMA does not
 1970 provide PA funding directly to the Assisting Entity. For the work to be eligible, the Requesting Entity must
 1971 have requested the resources provided.

¹⁸¹ All Small Projects must comply with procurement and contracting laws and regulations. In instances where Applicants submit cost claims based on non-competitive bids or contracts, time and materials contracts, or cost-plus-percentage-of-cost or percentage-of-construction contracts, FEMA will review the project for reasonable cost and procurement and contracting compliance.

¹⁸² FEMA utilizes an attribute-based sampling approach, following the GAO Financial Audit Manual, for verifying supporting documentation for PA projects therefore FEMA may select a representative sample rather than reviewing all documentation. See the [Public Assistance Sampling Procedure](#).

¹⁸³ *ibid.*

¹⁸⁴ *ibid.*

¹⁸⁵ *ibid.*



Terminology: Mutual Aid Agreement

Mutual aid agreement refers to a written or oral agreement between and among agencies/organizations and/or jurisdictions that provides a mechanism to quickly obtain assistance in the form of personnel, equipment, materials, and other associated services. The primary objective is to facilitate the rapid, short-term deployment of support prior to, during, and/or after an incident.

Some states have a statewide mutual aid agreement that designates the state as being responsible for reimbursing mutual aid costs. In these states, the Assisting 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 Assisting 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.

Post-Incident Agreements

When the Requesting and Assisting 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 an Assisting 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).¹⁸⁶

Eligibility

Mutual aid resources are eligible when used for emergency protective measures, emergency utility restoration (regardless of whether it is deemed Category B or F), building code and floodplain management administration and enforcement, or grant management activities (subject to the criteria in FEMA Recovery Policy FP 104-11-2, *Public Assistance Management Costs (Interim)*). Labor expenses for the Assisting Entity will be treated as contract labor, with regular time and overtime wages and certain benefits eligible, provided

¹⁸⁶ The Recipient conducts Applicant Briefings to provide PA Program information to potential Applicants. This briefing is described in Chapter 3: *Applicant Briefing*.

2002 labor rates are reasonable. Costs to transport the Assisting Entity’s equipment and personnel to the declared
 2003 area are eligible.



Examples: Ineligible Work Performed by an Assisting Entity

Ineligible work performed by an Assisting Entity includes, but is not limited to:

- Preparing to deploy;
- Dispatch operations outside the receiving state, tribe, or territory;
- Training and exercises; and
- Support for long-term recovery and mitigation operations.

2010 The Assisting Entity’s straight-time and overtime labor are eligible, including fringe benefits. When the
 2011 Requesting Entity is an SLTT government and the Assisting Entity is another division within the same SLTT
 2012 government, straight-time for budgeted employees of the Assisting Entity is ineligible.

2013 If the Assisting Entity backfills deployed personnel, overtime for backfill personnel is eligible even if they are
 2014 not performing eligible work. However, straight-time for backfill personnel is ineligible.

2015 FEMA reimburses the use of equipment provided to a Requesting Entity based on either the terms of the
 2016 agreement or equipment rates (detailed in Chapter 6: *Applicant-Owned and Purchased Equipment*). FEMA
 2017 provides PA funding to repair damage to this equipment the same way as it provides PA funding to repair
 2018 damage to applicant-owned equipment (detailed in Chapter 7: *Damage Caused During Performance of*
 2019 *Emergency Work*).

Emergency Management Assistance Compact (EMAC)

2021 The Emergency Management Assistance Compact (EMAC) is a national interstate mutual aid agreement that
 2022 enables states and territories to share resources in response to an incident. Work performed outside the
 2023 receiving state or territory that is associated with the operation of EMAC, including tracking of resources, is
 2024 ineligible unless the work is associated with the receiving state’s or territory’s emergency operations for the
 2025 incident. FEMA does not perform a reasonable cost analysis of work performed through EMAC, as long as the
 2026 project followed established EMAC rules.

2027 **Mutual Aid Documentation Requirements**

2028 **Table 11. Documentation for EMAC Costs**

For Small Projects and Large Projects
<p>To support cost eligibility for EMAC work, the applicant only needs to submit the following documentation:¹⁸⁷</p> <ul style="list-style-type: none"> ▪ The EMAC Resource Support Agreement signed by all parties (required at project obligation); ▪ Interstate Reimbursement Summary (R-1) form (required at project closeout); ▪ Associated Intrastate Reimbursement Summary (R-2) forms (required at project closeout); and ▪ Proof of payment by the Requesting Entity to the Assisting Entity (required at project closeout).

2029 The applicant needs to submit the following required documentation to support costs claimed for mutual aid
 2030 when provided outside of EMAC:

2031 **Table 12. Documentation for Mutual Aid Costs (non-EMAC)**

For Small Projects	For Large Projects ¹⁸⁸
<p>Itemized cost summary including of actual or estimated costs:</p> <ul style="list-style-type: none"> ▪ Services requested and received; and ▪ Total cost. 	<p>Written agreement; Services requested and received; Itemized cost summary including of actual costs for completed work. For each Assisting Entity:</p> <ul style="list-style-type: none"> ▪ Dates worked; ▪ Entity name ▪ Description of work performed; and ▪ Total cost. <p>Same information and documentation for labor, equipment, and supplies (as applicable); and Invoices.¹⁸⁹</p>

2032

¹⁸⁷ All forms referenced are contained within the EMAC Operations Manual (EOM) v.4.3, March 2022

¹⁸⁸ FEMA utilizes an attribute-based sampling approach, following the GAO Financial Audit Manual, for verifying supporting documentation for PA projects therefore FEMA may select a representative sample rather than reviewing all documentation. See the Public Assistance Sampling Procedure

¹⁸⁹ *ibid.*

2033 **Prisoners**

2034 FEMA provides PA funding for prisoner labor costs based on the rate that the applicant normally pays
 2035 prisoners. FEMA also provides PA funding for prisoner transportation to and from the worksite and
 2036 extraordinary costs of security guards, food, and lodging.¹⁹⁰

2037 The applicant must submit the following required documentation to support costs claimed for prison labor:

2038 **Table 13. Documentation for Prison Labor Costs**

For Small Projects	For Large Projects ¹⁹¹
Itemized cost summary including of actual or estimated costs: <ul style="list-style-type: none"> ▪ Number of individuals; ▪ Pay rate; and ▪ Total cost. 	Prison’s labor policy; Estimated hours and pay rate for work to be completed; Itemized cost summary including of actual costs for completed work. For each individual: <ul style="list-style-type: none"> ▪ Name and location worked; ▪ Date and hours worked; and ▪ Pay rate. Description of work performed with daily logs/activity reports. ¹⁹²

2039

2040 **National Guard**

2041 The Governor may activate National Guard personnel to State Active Duty in response to an incident. Labor
 2042 costs and per diem, if applicable, are eligible for State Active-Duty personnel performing eligible work. Both
 2043 straight-time and overtime are eligible, including fringe benefits.

2044 The U.S. Department of Defense funds National Guard personnel activated under Full-Time National Guard
 2045 Duty (Title 32) or Active Duty (Title 10). Therefore, Title 32 and Title 10 personnel costs, and any other costs
 2046 funded by the U.S. Department of Defense, such as training, are ineligible.

2047 **Direct Federal Assistance**

2048 When the impact of an incident is so severe that the SLTT governments lack the capability to perform or
 2049 contract eligible emergency protective measures, the recipient may request that the federal government
 2050 provide this assistance directly. FEMA may task another federal agency to perform or contract the work

¹⁹⁰ Stafford Act § 406(a)(2)(B), 42 U.S.C. § 5172.

¹⁹¹ FEMA utilizes an attribute-based sampling approach, following the GAO Financial Audit Manual, for verifying supporting documentation for PA projects therefore FEMA may select a representative sample rather than reviewing all documentation. See the [Public Assistance Sampling Procedure](#).

¹⁹² *ibid.*

provided it is an eligible activity under [Chapter 7. Emergency Work Eligibility](#)¹⁹³ unless the work falls under the authority of another federal agency.¹⁹⁴ FEMA issues a “Mission Assignment” to task the work and refers to it as Direct Federal Assistance (DFA).¹⁹⁵ DFA has the same cost-share provisions applicable to the declaration (as described in [Chapter 1: Federal Cost Share](#)).

Increased Federal Cost Share for a Limited Timeframe

When the president authorizes an increased federal cost share for a limited timeframe, FEMA applies it to all eligible costs related to work performed through 11:59 p.m., in the time zone where the work took place, on the date of expiration. Therefore, the applicant needs to delineate costs for work performed prior to the deadline versus costs for work performed after the deadline. FEMA applies the increased federal cost share according to the following criteria:

- Employees: Costs for hours worked up to the date and time of expiration.
- Purchased Material and Equipment: Cost to purchase each item that the applicant needed and used to perform eligible work during the increased funding period. In this case, FEMA also applies the increased federal cost share to the usage cost up to the date and time of expiration.
- Leased Equipment and Facilities: Lease costs up to date and time of expiration. FEMA may calculate the cost based on a proration of time (i.e., if a facility is leased for six months based on a monthly rate and the period for the increased federal cost share expired 45 days from the start of the lease, FEMA applies the increased federal cost share to the cost to lease the facility for 45 days based on a proration of the monthly rate).
- Contract Costs: Costs for work performed up to the date and time of expiration. If costs cannot be distinguished by date performed, FEMA may prorate costs based on the percentage of work completed prior to the deadline versus the percentage of work remaining. However, applicants should work with contractors to delineate dates associated with work.

Donated Resources

Individuals and organizations often donate resources to assist with response activities. FEMA does not provide PA funding for the value of donated resources; the value of the resources is used only as an offset for the non-federal share of eligible work and costs. However, FEMA allows the applicant to use the value of donated resources (non-cash contributions of property or services)¹⁹⁶ related to eligible emergency protective measures and debris removal to offset the non-federal cost share of its eligible emergency protective measure and debris removal projects and DFA. FEMA also allows applicants to use the value of donated resources related to eligible work on a Permanent Work Project to offset the non-federal cost share of that specific Permanent Work project. FEMA applies the offsets regardless of the cost share arrangements between the recipient and its subrecipients.

¹⁹³ 44 C.F.R. § 206.208(a).

¹⁹⁴ 44 C.F.R. § 206.208(c)(2).

¹⁹⁵ 44 C.F.R. § 206.208(c)(1).

¹⁹⁶ 2 C.F.R. § 200.96.

2084 For emergency protective measures and debris removal specifically, if there is a time-limited 100 percent
2085 federal cost share period (see Chapter 6: *Increased Federal Cost Share for a Limited Timeframe*) and the
2086 applicant uses resources donated during this time period, it may use the value of those donated resources
2087 to offset the non-federal cost share incurred after the 100 percent federal cost share period expires. If the
2088 applicant uses resources from its stock that were donated during a previous incident or timeframe, it may
2089 use the value of those donated resources to offset its non-federal cost share if the applicant has not claimed
2090 the resources as an offset in a previous incident.

2091 The applicant may apply the offset if all of the following conditions are met:

- 2092 ▪ The donated resource is from a third party. A third party includes private entities or individuals, including
2093 individuals that are normally paid employees of the applicant or federal, state, tribal, or territorial
2094 government, but are volunteering as unpaid individuals and not on behalf of the employer);
- 2095 ▪ The donated resource is necessary and reasonable;¹⁹⁷
- 2096 ▪ The applicant uses the resource in the performance of eligible work¹⁹⁸ and within the respective
2097 project's period of performance;¹⁹⁹ and
- 2098 ▪ The applicant or volunteer organization tracks the resources and work performed, including description,
2099 specific locations, and hours.²⁰⁰ The applicant must track the donated resources for Permanent Work to
2100 the specific project for which it is associated.

2101 FEMA considers unpaid individuals who volunteer its labor to the applicant to be third-party even if they are
2102 officially members or employees of the applicant organization (e.g., volunteer fire fighters at a PNP volunteer
2103 fire department performing eligible emergency protective measures).

2104 Resources donated to the applicant by an organization that would normally provide the same resources
2105 under its mission, such as the American Red Cross, are eligible as an offset if the organization is not
2106 federally funded. Additionally, if a mutual aid agreement provides for assistance at no cost to the applicant,
2107 the applicant may use the value of that assistance to offset its non-federal cost share.

2108 The value of a donated resource is ineligible as an offset toward the non-federal cost share if the resource is:

- 2109 ▪ Donated by a federal agency;
- 2110 ▪ Donated by another federally funded source;
- 2111 ▪ Funded through a federal award;²⁰¹
- 2112 ▪ Used as an offset to any other federal award;²⁰² or
- 2113 ▪ Used for ineligible work.

¹⁹⁷ 2 C.F.R. § 200.306(b)(3).

¹⁹⁸ Applicants may not use the value of standby time as a donated resource as no work is being performed.

¹⁹⁹ 2 C.F.R. § 200.309. For emergency protective measures, the end of the period of performance is equal to the latest emergency protective measures project's period of performance.

²⁰⁰ 2 C.F.R. §§ 200.434(d) and 306(b)(1).

²⁰¹ 2 C.F.R. § 200.306(b)(5).

²⁰² 2 C.F.R. § 200.306(b)(2).

2114 Requesting donated resources from contractors during the solicitation phase of a procurement may violate
2115 federal procurement rules as it may be considered overly burdensome or restrictive of competition.²⁰³ To
2116 remain compliant, the applicant can do the following:

- 2117 ▪ Accept unsolicited donated resources from contractors;
- 2118 ▪ Maintain a list of donors; and
- 2119 ▪ Ask contractors that are donating resources to work with other organizations.

2120 If the applicant accepts donated resources from contractors, it must not do any of the following:

- 2121 ▪ Solicit donations in its requests for proposals or solicitations for bids;
- 2122 ▪ Directly solicit donations or requests for proposals from contractors who are actively bidding on its
2123 contracts;
- 2124 ▪ Grant an award to a contractor which has donated resources for the specific work covered by the
2125 contract;
- 2126 ▪ Show favoritism or give the appearance of showing favoritism to a contractor who has donated
2127 resources; and
- 2128 ▪ Limit competition among contractors based on donated resources, especially for smaller contractors
2129 (including women or minority owned businesses) that might not be able to afford to donate resources.

2130 **Offset Amounts**

2131 FEMA applies values to donated resources as follows:

- 2132 ▪ **Volunteer Labor:** The offset is based on the same straight-time hourly labor rate, and fringe benefits, as a
2133 similarly qualified person in the applicant's organization who normally performs similar work. FEMA does
2134 not offset volunteer labor based on overtime or premium rates. If the applicant does not have employees
2135 performing similar work, FEMA credits the non-federal share based on a rate consistent with those
2136 ordinarily performing the work in the same labor market that the applicant would otherwise compete for
2137 that type of work.²⁰⁴
- 2138 ▪ **Equipment:** The offset is based on equipment rates and must not exceed the fair rental value (if loaned)
2139 or the fair market value of equipment that is in similar age and condition at the time of donation (if
2140 donated with a transfer of title). See Chapter 6: *Applicant-Owned and Purchased Equipment* for
2141 information on equipment rates.²⁰⁵
- 2142 ▪ **Supplies or Materials:** The offset is based on current commercial rates, which FEMA validates based on
2143 invoices from previous purchases or information available from vendors in the area. The amount must
2144 not exceed the fair market value at the time of donation.²⁰⁶
- 2145 ▪ **Buildings or Land:** For buildings or land donated permanently (i.e., with a transfer of ownership), the
2146 offset is based on the fair market value at the time of donation as established by an independent
2147 appraisal and certified by the applicant.
- 2148 ▪ **Space:** For building or land space donated for temporary use, the offset is based on the fair rental value
2149 of comparable privately-owned space in the same locality as established by an independent appraisal.²⁰⁷
- 2150 ▪ **Logistical Support:** Reasonable logistical support for volunteers doing eligible work, such as donations
2151 warehousing and management related to eligible work, may be eligible either for funding (if the applicant

²⁰³ 2 C.F.R. § 200.319.

²⁰⁴ 2 C.F.R. § 200.306(e) and (f).

²⁰⁵ 2 C.F.R. § 200.306(g), (h), and (i).

²⁰⁶ 2 C.F.R. § 200.306(g).

²⁰⁷ 2 C.F.R. § 200.306(i)(3).

2152 provides the logistical support) or as a donated resource offset (if a third party provides the logistical
 2153 support), subject to approval by FEMA.

2154 For emergency protective measures and debris removal, FEMA applies the donated resource offset against
 2155 the combined non-federal cost share for all the applicant’s emergency protective measure and debris
 2156 removal projects (Category A and B) under the declared incident. The offset may not exceed the total out-of-
 2157 pocket costs and is capped at the total non-federal cost share of these projects. FEMA prepares the Category
 2158 A and B donated resource project as a Category B project separate from all other Category A and B projects
 2159 for the applicant’s incurred costs. FEMA does not obligate the donated resource project until after it
 2160 obligates all emergency protective measure and debris removal projects for the applicant.

2161 For Permanent Work, FEMA applies the donated resource offset against the non-federal cost share of the
 2162 specific Permanent Work project for which the resources were donated. The offset may not exceed the total
 2163 out-of-pocket costs. FEMA caps the offset at the non-federal cost share of that specific Permanent Work
 2164 project. The type and amount of resources donated must directly correlate to, and may not exceed, the type
 2165 and amount approved in the SOW of the Permanent Work project (e.g., if the approved SOW includes
 2166 replacement of 10 chairs and 15 chairs are donated, the donated resource offset is limited to 10 chairs).
 2167 FEMA adjusts the Permanent Work project to capture any donated resource offsets related to the project
 2168 upon receipt of the donated resource information and no later than closeout.

2169 **Documentation Requirements**

2170 The applicant must submit the following required documentation to support the offset value for donated
 2171 resources.

2172 **Table 14. Documentation for Offset Values for Donated Resources**

Labor	Equipment	Supplies or Materials
Sign-in sheet; For each individual: <ul style="list-style-type: none"> ▪ Name; ▪ Title and function (for professional services); ▪ Date and hours worked; ▪ Location; and ▪ Description of work performed. 	For each piece of equipment: <ul style="list-style-type: none"> ▪ Name of donor; and ▪ Type of equipment, including make, model, size, capacity, horsepower, and wattage (as applicable); ▪ Location or site used; and ▪ Dates and hours used. 	For each supply or material: <ul style="list-style-type: none"> ▪ Name of donor; ▪ Description and quantity; ▪ Location used; and ▪ Documentation to validate claimed value, including invoices, or historical cost records.

2173 **Project Management and Design Services**

2174 FEMA provides PA funding for costs related to project management and design activities as part of the
 2175 project. Project management includes activities performed to manage the actual project. These are activities
 2176 that would be required regardless of whether the entity is receiving PA funding and differ from management
 2177 costs, which are costs for activities related to the receipt and administration of PA funding.

2178 Project management activities may include procurement actions, legal review of contracts, monitoring
2179 contractor work, construction oversight and inspections, environmental and historic preservation technical
2180 studies/surveys, permits, best management practices as recommended by regulatory agencies, and
2181 completing load tickets for debris operations. These activities are eligible provided they are tracked,
2182 documented, and directly related to a specific, eligible project.

2183 Architectural, engineering, and design services for the approved scope of work, including PA hazard
2184 mitigation, are also eligible provided the services are reasonable. Some projects do not need these services
2185 or require only basic services, while others require specialized engineering and design.

2186 When evaluating the eligibility of project management and design services, FEMA considers whether the
2187 project includes improvements that are ineligible for funding (costs for management and design services
2188 associated with improvements or other ineligible work are ineligible). Additional architectural and
2189 engineering services related to the improvements for Improved Projects are ineligible.

2190 Grant Management and Administration

2191 FEMA provides contributions for management costs that a recipient or subrecipient incurs in administering
2192 and managing PA awards under a major disaster or emergency declaration. Eligible activities include any
2193 indirect cost, direct administrative cost, and other administrative expense associated with developing and
2194 managing eligible PA projects under a major disaster or emergency. For recipients, FEMA provides PA
2195 funding for management costs based on actual costs incurred up to 7 percent of the total award amount.
2196 For subrecipients, FEMA provides PA funding for management costs based on actual costs incurred up to 5
2197 percent of the subrecipient's total award amount. Additional information is available in FEMA's interim
2198 policy, [FEMA Recovery Policy FP 104-11-2, Public Assistance Management Costs \(Interim\)](#) and FEMA's
2199 [Public Assistance Management Costs Standard Operating Procedures](#).

2200 In support of a claim for management costs, applicants must provide a summary of the work performed and
2201 costs claimed, including the number of employees, a list of equipment used and the equipment rates, total
2202 labor and equipment hours (or miles for vehicles) during the time frame, total labor and equipment costs,
2203 and general description of all tasks performed by individuals during the time frame. If FEMA has questions or
2204 concerns based on a review of the cost summary submitted, it may request additional documentation in
2205 support of the applicant's claim. All claims must be associated with eligible facilities, work, and costs.

2206 Surveys to Assess or Locate Damage or Debris Impacts

2207 The applicant is responsible for identifying locations of incident-related damage or debris impacts. Costs
2208 related to assessing overall impacts of an incident, locating damage or debris impacts, and conducting PDAs
2209 are not eligible project costs, but may be eligible as management costs (see Chapter 6: *Grant Management
2210 and Administration*).

2211 If, during a survey after the declaration, the applicant identifies incident-related damage to a facility, the
2212 costs related to the inspection of that facility are eligible as management costs provided the facility is
2213 eligible.

2214 Further detailed inspections of that damage to determine the extent of damage or quantity of debris and
 2215 method of repair or removal, including professional evaluations, are eligible as part of the work to restore
 2216 the facility or work to remove the debris. If the applicant performs a detailed inspection of a partially
 2217 damaged system, eligible costs are based on the percentage of the system that was damaged. For example,
 2218 if after inspecting 500 linear feet of sewer line, the applicant identified 100 linear feet of line damaged by
 2219 the incident, only one-fifth of the inspection costs are eligible.

2220 FEMA has specific eligibility criteria for inspecting earthquake damage to buildings constructed with welded
 2221 steel-moment frames. FEMA bases the eligibility criteria on the *Recommended Post Earthquake Evaluation*
 2222 *and Repair Criteria for Welded Steel Moment Frame Buildings* (FEMA 352).²⁰⁸ The criteria are summarized
 2223 in Chapter 7: *Building Safety Inspections*.

2224 Duplication of Benefits

2225 FEMA is legally prohibited from duplicating benefits from other sources. If the applicant receives financial
 2226 assistance from another program, from insurance, or from any other source for the same work that FEMA
 2227 funded, FEMA reduces the eligible cost or deobligates funding to prevent a duplication of benefits.²⁰⁹

2228 Insurance Proceeds

2229 FEMA cannot provide PA funding that duplicates insurance proceeds.²¹⁰ Consequently, FEMA reduces
 2230 eligible costs by the amount of:

- 2231 ▪ Actual insurance proceeds, if known;²¹¹ or
- 2232 ▪ Anticipated insurance proceeds based on the applicant's insurance policy if the amount of actual
 2233 insurance proceeds is unknown. FEMA subsequently adjusts the eligible costs based on the actual
 2234 amount of insurance proceeds that the applicant receives.

2235 FEMA requires the applicant to take reasonable efforts to pursue claims to recover insurance proceeds that
 2236 it is entitled to receive from its insurer(s). FEMA may limit funding if the insurance policy provides coverage
 2237 that should be pursued. If the applicant expends costs to pursue its insurance claim, FEMA offsets the
 2238 insurance reduction with the applicant's reasonable costs to pursue the claim if:

- 2239 ▪ The incurred cost resulted from pursuing insurance proceeds for FEMA-eligible work; and
- 2240 ▪ The applicant can provide documentation to show that the incurred cost was attributed to pursuing more
 2241 insurance proceeds than the initial settlement amount.

2242 If the applicant receives insurance proceeds for ineligible losses (e.g., business interruption), FEMA
 2243 calculates a relative apportionment of insurance proceeds to determine the insurance reduction based on:

- 2244 ▪ The proceeds received per type of loss as specified by the insurance policy or settlement documentation;
- 2245 ▪ Policy limits for categories of loss as specified in the insurance policy; or

²⁰⁸ www.fema.gov/media-library/assets/documents/747.

²⁰⁹ Stafford Act § 312, 42 U.S.C. § 5155, and 2 C.F.R. § 200.406.

²¹⁰ Stafford Act § 312, 42 U.S.C. § 5155, and 2 C.F.R. § 200.406.

²¹¹ 44 C.F.R. §§ 206.252(c) and 253(a).

- 2246 ▪ The ratio of total eligible losses to total ineligible losses.
- 2247 FEMA Recovery Policy (FP) 206-086-1, *Public Assistance Policy on Insurance*, describes insurance
- 2248 reductions in detail.²¹²

2249 The applicant must submit the following required documentation to support insurance proceeds:

2250 **Table 15. Insurable Facility Required Documentation for Insurance Proceeds**

Applicants submit the following:
Insurance Policies: <ul style="list-style-type: none">▪ Property Insurance;▪ Auto Insurance;▪ Flood Insurance;▪ Wind Insurance; and▪ Self-Insurance or Self-Insured Retention.
Insurance Policy documentation including the following, as applicable: <ul style="list-style-type: none">▪ Property policy declaration pages;▪ Schedule of covered locations;▪ Property policy forms and endorsements;▪ Inland marine coverage section; and▪ Equipment breakdown section.
Insurance settlement information (as soon as available): <ul style="list-style-type: none">▪ Final Statement of Loss;▪ Adjuster’s estimates;▪ Settlement checks or documentation to support total insurance proceeds;▪ Correspondence explaining the settlement amount and allocation; and▪ Letter of denial.

2251 **Non-Federal Grants and Cash Donations**

2252 Grants and cash donations from non-federal sources are subject to the following criteria based on whether

2253 the funds are provided toward a specific purpose and whether that specific purpose is otherwise eligible for

2254 PA funding.

- 2255 ▪ If the funds are designated for the same purpose as eligible work, the following apply:
 - 2256 ○ The applicant may use the funds toward its non-federal cost share.
 - 2257 ○ If the funds are not used toward the non-federal cost share, FEMA considers the donation or non-
 - 2258 federal grant a duplication of benefits and reduces eligible costs by the duplicated amount.

²¹² www.fema.gov/media-library/assets/documents/136089.

2259 ○ If the funds exceed the amount of the non-federal cost share, FEMA reduces eligible costs by the
2260 excess amount.

2261 ■ If the funds are designated for non-specific purposes, FEMA does not consider the funds a duplication of
2262 benefits. The applicant may use the funds toward its non-federal cost share. If the funds exceed the
2263 amount of the non-federal share, the applicant can apply the excess amount toward ineligible work.

2264 ■ If the funds are designated for a specific purpose that is ineligible, FEMA does not allow the applicant to
2265 apply the funds toward its non-federal cost share.

2266 **Third-Party Liability**

2267 When a third party²¹³ causes damage or increases the cost of repair or cleanup and the applicant requests
2268 FEMA funding for the costs, FEMA requires the applicant to make reasonable efforts to pursue claims to
2269 recover costs it is entitled to receive from the third party.

2270 If the costs recovered are not adequate despite the applicant's good faith effort, FEMA reduces eligible costs
2271 based on the recovered amount. If the applicant receives funds from the third party for eligible and ineligible
2272 work or losses, FEMA determines the offset amount based on:

- 2273 ■ The proceeds received for eligible losses as specified by the settlement documentation; or
- 2274 ■ The ratio of total eligible losses to total ineligible losses.

2275 **Other Federal Awards**

2276 If the applicant receives funds from another federal agency for the same purpose as PA funding, it is a
2277 duplication of benefits. FEMA cannot duplicate funds provided by another federal agency.

2278 **Duplication of Funding Between FEMA Programs**

2279 FEMA provides assistance under other programs, such as its Individual Assistance (IA) programs and Hazard
2280 Mitigation Grant Program (HMGP), that could duplicate assistance that is available under the PA Program.

2281 FEMA must ensure it does not duplicate funds in areas where its programs may have the same or similar
2282 eligible costs. The applicant must certify that no work or costs being claimed are covered by another funding
2283 source.

2284 **Interest on Loans**

2285 Applicants may need to obtain a loan to complete work. Financing costs for a loan are only eligible when they
2286 meet the conditions established in 2 C.F.R. § 200.449.

2287 **Ineligible Costs**

2288 The Stafford Act authorizes FEMA to provide PA funding for specific work performed as a result of the
2289 incident. It does not authorize FEMA to provide PA funding for all losses or costs resulting from the incident.

²¹³ 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, tribal, or territorial government.

2290 The following costs are ineligible because the Stafford Act does not authorize FEMA to provide PA funding for
2291 these items.

2292 **Loss of Revenue**

2293 FEMA cannot provide PA funding for revenue lost due to the incident. The following are examples of when
2294 loss of revenue may occur because of an incident:

- 2295 ▪ Hospitals release noncritical patients to make room for survivors;
- 2296 ▪ Hospitals sustain damage that reduces pre-disaster existing capacity;
- 2297 ▪ Waiving toll fees on a toll road, even if for evacuation purposes;
- 2298 ▪ Waiving the normal fee for ferry service to encourage alternate transportation;
- 2299 ▪ Waiving tipping fees;
- 2300 ▪ A utility system is shut down; or
- 2301 ▪ Events are cancelled due to an entity using a venue for incident-related activities, such as sheltering.

2302 **Loss of Useful Service Life**

2303 FEMA cannot provide PA funding for the projected loss of useful service life of a facility. For example, if a
2304 road has been inundated by flood waters for an extended timeframe, FEMA cannot provide PA funding for
2305 the value of the projected loss of useful life of the road due to the long-term effects the inundation might
2306 have on the road. Similarly, FEMA cannot fund the value of the loss of landfill capacity due to incident-
2307 related debris.

2308 **Tax Assessments**

2309 SLTT governments may conduct tax assessments to re-assess real property values after an incident. Costs
2310 related to conducting these assessments are ineligible because the assessments are neither essential to
2311 addressing an immediate threat to life or improved property, nor connected with the permanent restoration
2312 of eligible facilities.

2313 **Increased Operating Costs**

2314 Increased costs related to operating a facility or providing a service due to an increased demand for the
2315 services the facility provides are generally ineligible, even when directly related to the incident. However,
2316 short-term increased costs that are directly related to accomplishing specific emergency health and safety
2317 tasks as part of emergency protective measures may be eligible, as discussed in Chapter 7: *Expenses*
2318 *Related to Operating a Facility or Providing a Service*. An example of a potentially eligible increased
2319 operating costs includes, but are not limited to, fuel for increased use of a pumping station. This limited
2320 allowance is separate from and does not include loss of revenue.

Chapter 7: Emergency Work Eligibility

2321

2322 PA provides assistance for two types of Emergency Work following a Presidential declaration which are
 2323 crucial to disaster response and recovery efforts. Financial assistance and technical support are available to
 2324 ensure the efficient and effective execution of debris removal and emergency protective measures. The goal
 2325 is to minimize the negative impacts of disasters and promote a swift recovery for affected communities.
 2326 Proper implementation of these components is essential for communities to regain stability, ensure public
 2327 safety, and restore essential services following a disaster.

Eligibility Considerations for Emergency Work

2328

2329 FEMA is authorized to provide PA funding for Emergency Work,²¹⁴ including Category A: debris removal and
 2330 Category B: emergency protective measures. This chapter includes PA policy for Emergency Work, which is
 2331 work that must be done immediately to:

- 2332 ▪ Save lives;
- 2333 ▪ Protect public health and safety;
- 2334 ▪ Protect improved property;²¹⁵ or
- 2335 ▪ Eliminate²¹⁶ or lessen an immediate
 2336 threat of additional impacts and
 2337 damage.²¹⁷

2338

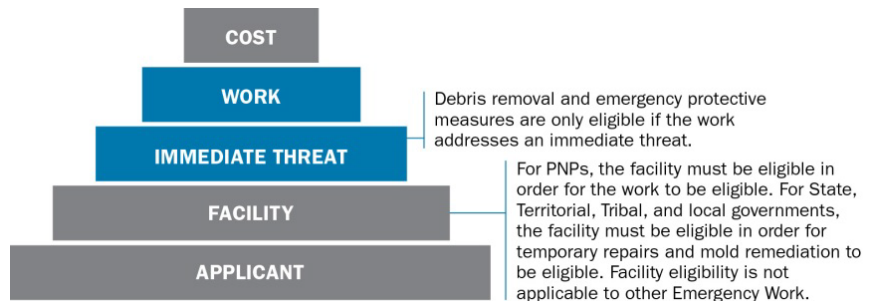


Figure 2. Emergency Work Eligibility

2339 “Immediate threat” is defined as the threat
 2340 of additional damage or destruction from an incident that can reasonably be expected to occur within 5
 2341 years of the declared incident.²¹⁸

2342 The declared incident must have caused the immediate
 2343 threat to exist. However, the threat itself can be from any
 2344 type of incident; it is not limited to the type of incident that
 2345 caused the initial impact or threat. For example, post-fire
 2346 rainfall may trigger debris flows in an area affected by a
 2347 presidentially declared wildfire and may pose an immediate
 2348 threat to life, public health and safety, or improved property.
 2349 Therefore, under a wildfire declaration, Emergency Work to

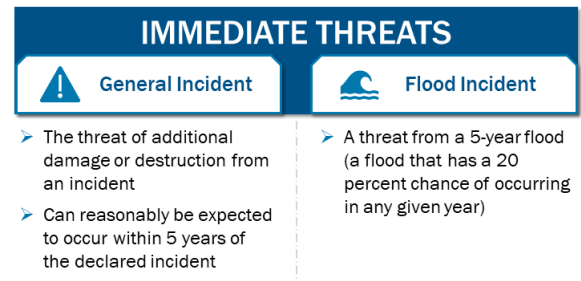


Figure 9. Immediate Threats

²¹⁴ 44 C.F.R. § 206.201(b).

²¹⁵ 44 C.F.R. § 206.221(d)

²¹⁶ 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.”

²¹⁷ 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.

²¹⁸ 44 C.F.R. § 206.221(c).

2350 address an immediate threat of additional damage or destruction from a rain event that could reasonably be
 2351 expected to occur within 5 years could be eligible.

2352 The deadline to complete Emergency Work is 6 months from the declaration date unless the recipient or
 2353 FEMA authorizes an extension.²¹⁹ Although federal regulations allow 6 months to complete Emergency Work,
 2354 FEMA considers the urgency with which the applicant proceeds with work when evaluating eligibility. The
 2355 applicant should not delay when taking actions to address threats to life, public health and safety, and
 2356 improved property.

2357 To be eligible, work must be the legal responsibility of an eligible applicant.²²⁰ Emergency response is a
 2358 governmental function. As a result, for PNP applicants, eligible Emergency Work is generally limited to that
 2359 associated with an eligible PNP facility as follows:

- 2360 ▪ Debris removal from the facility property; and
- 2361 ▪ Emergency protective measures to prevent damage to the facility and its contents.

2362 In limited circumstances, PNPs may be eligible for other types of Emergency Work when essential
 2363 components of a facility are urgently needed to save lives or protect public health and safety. If a PNP
 2364 provides emergency services at the request of, and certified by, the legally responsible government entity,
 2365 FEMA provides PA funding through that government entity as the eligible applicant.

2366 For SLTT applicants, evaluating facility eligibility is not necessary for most Emergency Work. For these
 2367 applicants, eligibility of Emergency Work is primarily based on the evaluation of an immediate threat and the
 2368 legal authority to perform the work. The applicant must provide the following:

2369 **Table 16. Required Information for Work Eligibility**

For Small Projects	For Large Projects
<ul style="list-style-type: none"> ▪ Detailed description of work performed. ▪ Applicants can certify to the following requirements to support eligibility in lieu of providing documentation to support: <ul style="list-style-type: none"> ○ As a result of immediate threat; ○ Activities are required as a result of the declared incident; and ○ Work is located on improved property and in a declared area. ○ The Applicant is legally responsible for conducting the work. 	<ul style="list-style-type: none"> ▪ Detailed description of work performed; ▪ Description of immediate threat; and ▪ Records demonstrating presence of immediate threat (e.g., technical reports, safety inspector reports, photographs), if an immediate threat is not apparent based on the descriptions provided.

2370 **ENVIRONMENTAL AND HISTORIC PRESERVATION CONSIDERATIONS FOR EMERGENCY WORK**

2371 The applicant should make every effort to inform the recipient and FEMA of necessary Emergency Work prior
 2372 to performing the work, when appropriate, to afford FEMA the opportunity to perform Environmental and

²¹⁹ 44 C.F.R. §§ 206.204(c) and (d).

²²⁰ 44 C.F.R. § 206.223(a)(3).

2373 Historic Preservation (EHP) reviews and consultations. The applicant is responsible to communicate with the
 2374 appropriate agencies that determine the required EHP permits needed prior to beginning emergency work.
 2375 FEMA EHP staff is available to assist the applicant with ensuring that the work complies with EHP laws,
 2376 regulations, and EOs. For more information about compliance with EHP reviews and documentation
 2377 requirements for various activities, see Chapter 10: *Emergency Work*.

2378 Debris Removal (Category A)

2379 Debris removal activities, such as clearance, removal, recycling, and disposal are eligible under Category A if
 2380 the removal is in the public interest, based on whether the work is necessary to:

- 2381 ▪ Eliminate immediate threats to life, public health and safety; or
- 2382 ▪ Eliminate immediate threats of significant damage to improved²²¹ public or private property; or
- 2383 ▪ Ensure economic recovery of the affected community to the benefit of the community-at-large;²²² or
- 2384 ▪ Mitigate the risk to life and property by removing Substantially Damaged²²³ structures and associated
 2385 ancillary facilities as needed to convert property acquired using Hazard Mitigation Grant Program
 2386 (HMGP) funds for uses compatible with open space, recreation, or wetlands management practices.
 2387 Such removal must be completed within 2 years of the declaration date unless extended by the Assistant
 2388 Administrator of the Recovery Directorate at FEMA Headquarters.²²⁴

2389 Debris includes, but is not limited to, vegetative debris, construction and demolition debris, sand, mud, silt,
 2390 gravel, rocks, boulders, white goods, and vehicle and vessel wreckage. Snow-related activities including road
 2391 clearing are not considered debris operations, as snow is not considered a form of debris.

2392 For a PNP applicant, eligible debris removal is limited to that associated with an eligible facility, including
 2393 debris on the property of the eligible facility.



2394 Terminology: Federal-Aid Roads

2395 **Federal-aid roads** are highways on the federal-aid highway system and all other public roads not
 2396 classified as local roads or rural minor collectors. The federal-aid highway system means the National
 2397 Highway System and the Dwight D. Eisenhower National System of Interstate and Defense Highways
 2398 (the Interstate System).

2399 Removal of debris from improved public property and public rights-of-way (ROWs), including federal-aid
 2400 roads, is eligible. If SLTT governments authorize residents to move incident-related debris from non-

²²¹ 44 C.F.R. § 206.221(d) for definition of Improved Property.

²²² 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.

²²³ 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.

²²⁴ Stafford Act § 407, 42 U.S.C. § 5173; 44 C.F.R. § 206.224(a).

2401 commercial properties to public ROWs, FEMA provides PA funding to remove the debris from the ROWs for a
 2402 limited timeframe.

2403 Applicants must monitor contracted debris removal operations and document work and costs that may be
 2404 eligible for reimbursement through the PA Program. Monitoring debris removal operations requires
 2405 observation and documentation of all work from the point of debris collection to the final disposal.

2406 **Table 17. Required Information for Debris Removal and Disposal**

For Small Projects	For Large Projects
<p>Estimated or actual debris quantities removed, reduced, disposed, and recycled by type.</p> <ul style="list-style-type: none"> ▪ If debris removal is contracted, the Applicant must provide documentation to substantiate monitoring was conducted. ▪ Location of temporary debris staging and reduction sites (TDSRs) and permanent or final disposal sites. ▪ Type of disposal site (e.g., municipal, private, or commercial). If commercial, name of vendor. ▪ Copies of permits and authorization for reduction and disposal sites. ▪ Documentation to substantiate debris is not pre-existing for waterway debris removal. ▪ Documentation to substantiate coordination with other regulatory or federal agencies. ▪ If removing vegetative debris in an invasive species quarantine area: <ul style="list-style-type: none"> ○ Name of quarantine area. ○ Method of disposal. ○ Confirmation that the debris was disposed of according to quarantine requirements. 	<p>Estimated or actual debris quantities removed, reduced, disposed, and recycled by type.</p> <ul style="list-style-type: none"> ▪ Load tickets²²⁵ ▪ Photographs of debris impacts ▪ If debris removal is contracted: <ul style="list-style-type: none"> ○ Proof of monitoring.²²⁶ ○ Tower logs.²²⁷ ▪ Location of temporary debris staging and reduction sites (TDSRs) and permanent or final disposal sites. ▪ Type of disposal site (e.g., municipal, private, or commercial). If commercial, name of vendor. ▪ Copies of permits and authorization for reduction and disposal sites. ▪ Documentation to substantiate debris is not pre-existing for waterway debris removal. ▪ Documentation to substantiate coordination with other regulatory or federal agencies. ▪ If removing vegetative debris in an invasive species quarantine area: <ul style="list-style-type: none"> ○ Name of quarantine area. ○ Method of disposal. ▪ Confirmation that the debris was disposed of according to quarantine requirements.

2407
 2408 Removal of debris placed on the public ROWs from commercial properties is ineligible unless FEMA provides
 2409 an exception for very limited, extraordinary circumstances (see Chapter 7: *Removal from Commercial*)

²²⁵ FEMA utilizes an attribute-based sampling approach, following the GAO Financial Audit Manual, for verifying supporting documentation for PA projects therefore FEMA may select a representative sample rather than reviewing all documentation. See the [Public Assistance Sampling Procedure](#).

²²⁶ Ibid.

²²⁷ Ibid.

2410 *Property*). Additionally, removal of materials related to the construction, repair, or renovation of either private
 2411 non-commercial or commercial structures is ineligible.

2412 Debris removal from the following is ineligible:

- 2413 ▪ Federally maintained navigable channels and waterways (usually under the authority of the U.S. Coast
 2414 Guard (USCG) or the USACE²²⁸);
- 2415 ▪ Agricultural land; and
- 2416 ▪ Natural, unimproved land, such as heavily wooded areas and unused areas.²²⁹

2417 Removing debris to restore the pre-disaster capacity of engineered facilities may be eligible as Permanent
 2418 Work if the applicant can substantiate the pre-disaster capacity and maintenance of that facility as
 2419 described in Chapter 8: *Restoring the Capacity of Channels, Basins, and Reservoirs*.

2420 Removal and disposal of pollutants and hazardous substances are eligible either as Category A debris
 2421 removal when conducted as part of the overall debris operations or as Category B work in accordance with
 2422 Chapter 7: *Hazardous Materials*.

2423 **Environmental and Historic Preservation Considerations for Debris Removal**

2424 Although debris removal is usually statutorily excluded from the National Environmental Policy Act (NEPA)
 2425 review,²³⁰ FEMA must ensure compliance with other EHP-related federal laws, regulations, and EOs prior to
 2426 funding the work. Accordingly, FEMA must ensure that the applicant's debris removal operations avoid
 2427 impacts to such resources as floodplains, wetlands, federally listed threatened and endangered species and
 2428 their critical habitats, and historic properties (including maritime or underwater archaeological resources if
 2429 waterways are impacted). Additionally, debris removal operations must avoid impacts that contribute to
 2430 hazardous gas release and water supply contamination. The applicant must ensure they follow the
 2431 conditions established by SLTT authorities and must stage debris at a safe distance from property
 2432 boundaries, surface water, floodplains, wetlands, structures, wells, and septic tanks with leach fields.
 2433 Additional coordination may be necessary for debris removal from waterways, stump removal, and use of fill.
 2434 These EHP requirements also apply to Private Property Debris Removal and Disposal.

2435 The applicant is responsible for permits and compliance with federal, state, tribal, and territorial
 2436 requirements. The applicant needs to work with the disaster EHP staff to gain clarity on compliance
 2437 requirements and permits for debris-related operations. Upon completion of debris removal, recycling, and

²²⁸ The U.S. Army Corps of Engineers (USACE) has primary responsibility for the removal of debris from federally-maintained navigable channels and waterways. Section 202 of the Water Resources Development Act of 1976 (PL 94-587) authorizes USACE to remove debris from federally-maintained commercial harbors and water areas immediately adjacent thereto. Sections 15, 19 and 20 of the River and Harbor Act of 1899, as amended, authorize USACE to remove sunken vessels or other obstructions from navigable waterways under emergency conditions. A navigable waterway is one that has been authorized by Congress and which USACE operates and maintains for general (including commercial and recreational) navigation. USACE's policy is to oversee removal of sunken vessels by an identifiable owner, operator or lessee if the sunken vessel is in or likely to be moved into a federal navigation channel. USACE will remove a vessel using its emergency authorities only if the owner, operator or lessee cannot be identified or they cannot affect removal in a timely and safe manner.

²²⁹ 44 C.F.R. § 206.224(b)).

²³⁰ Stafford Act § 316, 41 U.S.C. § 5159.

2438 disposal, site remediation may be necessary at staging sites and other impacted areas. For more
2439 information on EHP considerations, see Chapter 10: *Emergency Work*.

2440 **Hazardous Limbs, Trees, and Stumps**

2441 Eligible vegetative debris may include tree limbs, branches, stumps, or trees that are still in place, but
2442 damaged to the extent they pose an immediate threat to life, public health and safety, or significant damage
2443 to improved property. These items are ineligible if the hazard existed prior to the incident, or if the item is in
2444 a natural area and does not extend over improved property or public-use areas, such as trails, sidewalks, or
2445 playgrounds.

2446 Contractors typically charge debris removal based on a unit price for volume (cubic yards) or weight (tons). A
2447 hazardous tree or stump may be collected individually. When these items are collected individually,
2448 contractors often charge a price per tree or stump based on its size. FEMA encourages applicants to procure
2449 branch or limb removal from trees on a one-time charge per tree basis as opposed to a unit price per limb or
2450 branch to facilitate more cost-effective operations. FEMA has specific eligibility criteria and information or
2451 documentation requirements for funding these items.

2452 Bracing a tree is eligible, as Category B work.. FEMA encourages applicants to work with a Registered
2453 Professional Forester, an individual with a Tree Risk Assessment Qualification (TRAQ), or a Certified Arborist
2454 to perform hazard tree assessments to determine those trees that can be saved by bracing without causing
2455 a public health and safety concern.

2456 Pruning, maintenance, trimming, and landscaping are ineligible.

2457 **HAZARDOUS LIMB OR BRANCH REMOVAL**

2458 Removal of broken limbs or branches that pose an immediate threat is eligible. For example, a broken limb
2459 or branch hanging over improved property or public-use areas, such as trails, sidewalks, or playgrounds,
2460 poses an immediate threat of falling and causing injury to the public or damage to improved property.

2461 FEMA does not fund removal of broken limbs or branches located on private property unless:

- 2462 ▪ The limbs or branches extend over the public ROW;
- 2463 ▪ The limbs or branches pose an immediate threat; and
- 2464 ▪ The applicant removes the hazard from the public ROW (without entering private property).

2465 Note: Only the minimum cut necessary to remove the hazard is eligible. For example, cutting a branch at the
2466 trunk is ineligible if the threat can be eliminated by cutting it at the closest main branch junction.

2467 **HAZARDOUS TREE REMOVAL**

2468 FEMA considers incident-damaged trees to be hazardous and eligible for removal if the tree presents a
2469 hazard to the public due to conditions such as, but not limited to:

- 2470 ▪ Deterioration or physical damage to the root system, trunk, stem, or limbs; and

- 2471 ▪ The direction and lean of the tree per the Occupational Safety and Health Standards.²³¹
- 2472 For hazardous trees that have 50 percent or more of the root-ball exposed, removal of the tree and root-ball
- 2473 and filling the root-ball hole are eligible. For contracted removal of a tree with an exposed root-ball, FEMA will
- 2474 not reimburse two separate unit costs to remove the tree and its root-ball.
- 2475 For hazardous trees that have less than 50 percent or more of the root-ball exposed, FEMA only provides PA
- 2476 funding to flush cut the item at ground level and dispose of the cut portion based on volume or weight.
- 2477 Grinding any residual stump after cutting the tree is ineligible.
- 2478 For hazardous trees that have less than 50 percent of the root-ball exposed, FEMA only provides PA funding
- 2479 to flush cut the item at ground level and dispose of the cut portion based on volume or weight. Grinding any
- 2480 residual stump after cutting the tree is ineligible.
- 2481 The removal of burned trees that pose an immediate threat to life, public health and safety, or significant
- 2482 damage to improved property, as assessed by the authority having jurisdiction, in coordination with a
- 2483 qualified individual²³² is eligible.
- 2484 When estimating or calculating costs for tree removal, an applicant may utilize a cost per parcel of land
- 2485 approach or a cost per tree. The applicant must clearly state which method they have selected when
- 2486 requesting reimbursement for eligible work. Only those trees that pose an immediate threat to public health
- 2487 and safety or improved property may be eligible under either approach. The applicant must provide sufficient
- 2488 documentation to validate the approach was cost-effective.
- 2489 **HAZARDOUS STUMP REMOVAL**
- 2490 For stumps that have 50 percent or more of the root-ball exposed, removal of the stump and filling the root-
- 2491 ball hole are eligible. If grinding a stump in-place is less costly than extraction, grinding the stump in-place is
- 2492 eligible.
- 2493 Stump removal in areas with known or high potential for archaeological resources requires that FEMA EHP
- 2494 further evaluate and consult with the SHPO or THPO. If the applicant discovers any potential archeological
- 2495 resources during stump removal, the applicant must immediately stop work and notify FEMA. For highly
- 2496 sensitive areas such as cemeteries or tribal lands, FEMA will determine if a qualified monitor²³³ is required.

²³¹ 29 C.F.R. § 1910.266(c)

²³² According to the International Society of Arboriculture, only a Registered Professional Forester, an individual with a Tree Risk Assessment Qualification (TRAQ), or a Certified Arborist may perform hazard tree assessment; however, the authority having jurisdiction of the geographic location, will make the determination regarding recognition of individuals qualified to make the determination.

²³³ A qualified monitor is an individual meeting the Secretary of the Interior's Professional Qualification Standards in archaeology in accordance with Archeology and Historic Preservation; Secretary of the Interior's Standards and Guidelines (nps.gov).

2497 **Contracted Stump Removal**

2498 FEMA only reimburses contracted costs charged on a per-stump basis if extraction is required as part of the
2499 removal. The applicant needs to ensure the price for stump removal includes extraction, transport, disposal,
2500 and filling the root-ball hole.

2501 For stumps that have less than 50 percent of the root-ball exposed, FEMA only provides PA funding to flush
2502 cut the item at ground level and dispose of the cut portion. Grinding any residual stump is ineligible.

2503 For stumps that do not require extraction, FEMA only provides PA funding based on volume or weight as
2504 removal of these stumps does not require special equipment.

2505 If the applicant incurs additional costs in picking up stumps that the contractor did not extract, it should
2506 present information or documentation to substantiate the costs as reasonable based on the equipment
2507 required to perform the work.

2508 **Documentation Requirements for Hazardous Limbs, Trees, and Stumps**

2509 In addition to the general documentation required for debris removal operations, the applicant must provide
2510 and retain all of the following documentation to support the eligibility of work to remove tree limbs,
2511 branches, stumps, or trees that are still in place:

- 2512 ▪ Quantity removed;
- 2513 ▪ Quantity, location, and source of material to fill root-ball holes; and
- 2514 ▪ Description of equipment used to perform the work.

2515 **Waterways**

2516 Debris removal from waterways that is necessary to eliminate an immediate threat to life, public health and
2517 safety, or improved property is eligible. Removal of debris in a waterway that does not meet this criterion is
2518 ineligible, even if the debris is deposited by the incident.

2519 The EPA and the USCG have the specific authority to remove hazardous materials, as described in the
2520 previous section. EPA is responsible for removing such material from inland water zones and USCG is
2521 responsible for coastal water zones. Debris removal from waterways usually requires coordination with the
2522 USACE for the use of a nationwide permit and with the National Marine Fishery Service (NMFS) and U.S. Fish
2523 and Wildlife Service (USFWS) to ensure compliance with Section 7 of the Endangered Species Act (ESA).

2524 **NAVIGABLE WATERWAYS**

2525 If the applicant has the legal responsibility to maintain a non-federally maintained navigable waterway,
2526 removal and disposal of incident-related debris that obstructs the passage of vessels is eligible. Debris
2527 removal is eligible to a maximum depth of 2 feet below the low-tide draft of the largest vessel that utilized
2528 the waterway prior to the incident. Any debris below this zone is ineligible unless it is necessary to remove
2529 debris extending upward into an eligible zone.

2530 If a tree is still rooted to an embankment and is floating or submerged, the cost to cut the tree at the water's
2531 edge is eligible.

2532 Debris removal from federally maintained navigable waterways is ineligible. The USCG and the USACE have
 2533 specific authorities for removal of hazardous substances, vessels, and other obstructions from federally
 2534 maintained navigable waterways.²³⁴

2535 NON-NAVIGABLE WATERWAYS, INCLUDING FLOOD CONTROL WORKS AND NATURAL 2536 WATERWAYS

2537 Debris deposited by the incident may obstruct a natural waterway that is not improved or maintained or a
 2538 constructed channel, including flood control works. In these cases, removal of the debris from the channel is
 2539 eligible if the debris poses an immediate threat, such as when the debris:

- 2540 ▪ Obstructs, or could obstruct, intake structures;
- 2541 ▪ Could cause damage to structures, such as bridges and culverts; or
- 2542 ▪ Is causing, or could cause, flooding to improved public or private property during the occurrence of a 5-
 2543 year flood.

2544 Terminology: Flood Control Works

2545 **Flood control works** are those structures such as levees, flood walls, flood control channels, and water
 2546 control structures designed and constructed to have appreciable effects in preventing damage by
 2547 irregular and unusual rises in water levels.

2548 Removal of the obstruction is eligible in streams where debris removal might also be eligible under the
 2549 Natural Resources Conservation Service (NRCS) Emergency Watershed Protection Program (EWP)²³⁵. Each
 2550 agency has different program eligibility requirements; therefore, FEMA, the recipient, and the applicant need
 2551 to coordinate with NRCS prior to conducting work to maximize funding and ensure there is no duplication of
 2552 benefits.

2553 Debris removal from flood control works that are under the specific authority of NRCS is ineligible for PA
 2554 funding, even if NRCS does not have sufficient funding or does not provide assistance. Flood control works
 2555 under the specific authority of NRCS are those that are part of the [WFPO Program under PL 83-566](#).

2556 For flood control works that are eligible for the USACE Rehabilitation and Inspection Program (RIP),²³⁶ debris
 2557 removal is eligible for PA funding. USACE does not reimburse applicants for debris removal but conducts this
 2558 activity when necessary.

²³⁴ 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.

²³⁵ [The Natural Resources Conservation Service \(NRCS\) Emergency Watershed Protection Program \(EWP\)](#) is an emergency recovery program designed to relieve imminent hazards to life and property caused by floods, fires, windstorms, and other natural occurrences.

²³⁶ [The U.S. Army Corps of Engineers \(USACE\) Rehabilitation and Inspection Program \(RIP\)](#) provides rehabilitation assistance for flood risk reduction structures.

2559 **IDENTIFYING DEBRIS IMPACT LOCATIONS**

2560 The applicant is responsible for identifying debris deposited by the incident that poses an immediate threat.
2561 Random surveys to look for debris, including surveys performed using side scan sonar, are ineligible.
2562 Satellite imagery or waterway soundings/bathymetric surveys showing the waterway pre-and post-disaster
2563 can substantiate that debris was deposited by the incident and was not pre-existing. If the applicant
2564 identifies an area of debris impacts and demonstrates the need for a survey to identify a specific immediate
2565 threat, PA funding for the survey in that location, including the use of side scan sonar, is eligible.

2566 **Privately-Owned Vehicles and Vessels on Public Property**

2567 Removal of privately-owned vehicles and vessels from public property is eligible if all of the following
2568 conditions are met:

- 2569 ▪ The vehicle or vessel blocks access to a public-use area;
- 2570 ▪ The vehicle or vessel is abandoned;
- 2571 ▪ The applicant follows applicable SLTT government ordinances or laws for private vehicle or vessel
2572 removal; and
- 2573 ▪ The applicant documents the handling of the vehicle or vessel.

2574 The applicant needs to provide and retain documentation to support it met these criteria.

2575 A limited timeframe for vehicle and vessel storage is eligible if it is necessary to remove the item prior to
2576 being able to identify the owner. If the owner is identified, the applicant should work with private property
2577 owners to pursue and recover storage and removal costs and credit FEMA the federal share of any funds
2578 received.

2579 **Disposal**

2580 FEMA provides PA funding for various costs related to disposing of debris. The applicant should dispose of
2581 debris in an efficient and cost-effective manner.

2582 Vegetative debris is bulky and can consume a significant volume of landfill space. To minimize the use of
2583 landfill space, FEMA encourages the applicant to reduce the volume of vegetative debris. Costs to reduce
2584 vegetative debris using methods such as mulching, grinding, or burning are eligible. Reducing and/or
2585 recycling debris has financial and environmental advantages.

2586 When removing sand, disposal of sand spoils on a public beach may be eligible as part of the debris removal
2587 project when it is the most cost-effective method of disposal.

2588 Certain types of construction and demolition debris are reusable or recyclable. The applicant should
2589 conserve landfill space by separating materials for reuse or recycling.

2590 **RECYCLING REVENUE**

2591 If the applicant receives revenue from recycling debris, FEMA reduces PA funding by the amount of revenue
2592 received. The applicant may deduct costs for administering and marketing the sale of the salvageable
2593 materials from the fair market value.

2594 If a contract allows the contractor to take possession of salvageable material and benefit from its sale to
2595 lower bid prices, there is no salvage value to be recovered at the end of the project. Therefore, the applicant
2596 has no further obligation to FEMA.

2597 **TEMPORARY STAGING SITES**

2598 Establishing and operating a temporary staging site necessary for debris separation and reduction is eligible.
2599 The cost to lease property is eligible. Additionally, if the terms of the lease require that the applicant restore
2600 the leased property back to its condition prior to the applicant's use, the costs related to that restoration are
2601 also eligible as part of the Category A project. If leased, the applicant must provide the lease agreement.

2602 **HAND-LOADED TRUCKS AND TRAILERS**

2603 FEMA has determined that, for vegetative debris, hand-loaded trucks and trailers achieve approximately half
2604 the compaction level of mechanically loaded trucks and trailers. Therefore, FEMA only provides PA funding
2605 for 50 percent of the debris monitor's observed capacity of hand-loaded trucks and trailers carrying
2606 vegetative debris.

2607 Similarly, trucks without solid tailgates cannot be compacted to full capacity. Therefore, FEMA only funds up
2608 to a maximum of 85 percent of the certified capacity for trucks without solid tailgates and would apply a 15
2609 percent reduction to the total debris quantity.

2610 The applicant must document the types and total quantity of hand-loaded debris, and the types and total
2611 quantity of debris hauled in trucks without solid tailgates and provide this information to FEMA to ensure
2612 appropriate reductions are taken for this debris.

2613 **LANDFILLS AND TIPPING FEES**

2614 Landfill tipping fees usually include fixed and variable costs, along with special taxes or fees assessed by the
2615 jurisdiction in which the landfill is located. Eligible tipping fee costs are limited to the variable and fixed costs
2616 that are directly related to landfill operations, such as recycling tax.

2617 Eligible fixed costs for tipping fees include:

- 2618 ▪ Equipment;
- 2619 ▪ Construction;
- 2620 ▪ Permits;
- 2621 ▪ Landfill closure;
- 2622 ▪ Post-closure activities; and
- 2623 ▪ Amortized costs for facilities that support the landfill.

2624 Eligible variable costs for tipping fees include:

- 2625 ▪ Labor;
- 2626 ▪ Supplies;
- 2627 ▪ Maintenance; and
- 2628 ▪ Operation of utilities.

2629 The components of tipping fees that are not directly related to landfill operations, such as special taxes or
2630 fees related to other government services or public infrastructure, are ineligible as part of the tipping fee.
2631 When providing PA funding for tipping fees, FEMA removes any ineligible components.

2632 The applicant may use a significant portion of the available capacity of a landfill to dispose of incident-
2633 related debris. Although FEMA provides PA funding for tipping fees, it cannot provide PA funding for the value
2634 of the loss of landfill capacity due to incident-related debris.

2635 **Monitoring Contracted Debris Removal Operations**

2636 Applicants must monitor all contracted debris removal operations to ensure that the quantities and work
2637 claimed are accurate and eligible. This includes documenting debris quantities by types, quantities reduced,
2638 reduction methods, and pickup and disposal locations. For more information about the types of monitoring
2639 required by contract type, please see the [Public Assistance Debris Monitoring Guide](#).

2640 The applicant may use force account resources (including temporary hires), contractors, or a combination of
2641 these for monitoring. It is not necessary, or cost-effective, to have Professional Engineers or other certified
2642 professionals perform debris monitoring duties. FEMA considers costs unreasonable when associated with
2643 the use of staff that are more highly qualified than necessary for the associated work. If the applicant uses
2644 staff with professional qualifications to conduct debris monitoring, it must document the reason it needed
2645 staff with those higher qualifications.

2646 FEMA provides training to the applicant's force account debris monitors (including its temporary hires) upon
2647 request.

2648 Eligible activities associated with debris monitoring include, but are not limited to:

- 2649 ▪ Field supervisory oversight;
- 2650 ▪ Monitoring contracted debris removal at both the loading and disposal sites;
- 2651 ▪ Compiling documentation, such as load tickets and monitor reports, to substantiate eligible debris; and
- 2652 ▪ Training debris monitors on debris removal operations, monitoring responsibilities and documentation
2653 processes, and FEMA debris eligibility criteria.

2654 Debris monitoring roles, resources, provisions, and activities are covered in depth in the Public Assistance
2655 Debris Monitoring Guide.²³⁷

²³⁷ https://www.fema.gov/sites/default/files/documents/fema_debris-monitoring-guide_sop_3-01-2021.pdf



Terminology: Commercial and Non-Commercial Property

Commercial property is any property, structure, or portion of a structure, used for the purpose of conducting commerce or as a rental unit (e.g., industrial parks, golf courses, cemeteries, apartments, condominiums, or trailer parks).

Non-commercial property is a property, structure, or portion of a structure, used by the property owner as their primary residence, such as a house or condominium unit in which the owner resides.

Private Property Debris Removal (PPDR)

Debris removal from private property (e.g., privately-owned roads, privately-owned non-commercial property, or commercial property) is the responsibility of the property owner and is usually ineligible under the PA Program. In limited circumstances, based on the severity of the impact of an incident and whether debris on private property is so widespread that it threatens public health and safety or the economic recovery of the community, FEMA may determine that private property debris removal (PPDR) is eligible under the PA Program. In such cases, FEMA works with the SLTT governments to designate specific areas where PPDR, including private waterways, is eligible. The debris removal must be in the public interest, not merely benefiting an individual or a limited group of individuals. Figure 9. *Debris on Private Property* is an example of the level of debris impacts that may warrant FEMA assistance for PPDR.



Figure 9. Debris on Private Property

PPDR ELIGIBILITY DETERMINATION PROCESS

Pre-approval from FEMA is not required for the applicant to begin PPDR work (including on privately-owned roads, privately-owned non-commercial, and commercial property). However, the applicant must notify FEMA that PPDR is being conducted and identify the type of property on which the PPDR is being conducted (e.g., privately-owned roads, privately-owned non-commercial, or commercial property) so FEMA can ensure notifications are made to the necessary FEMA components, including EHP, and federal partners. Given the limited eligibility of and the additional requirements related to PPDR on both non-commercial and commercial property, although not required, applicants are encouraged to obtain preliminary approval for the activity from FEMA prior to starting work.

For FEMA to evaluate eligibility of PPDR funding requests, the applicant must submit written documentation to FEMA identifying the specific properties or areas of properties where PPDR activities occurred. FEMA only approves PA funding for PPDR if the applicant demonstrates all of the following with sufficient documentation:

Legal Authority and Indemnification

FEMA accepts a written statement from an authorized applicant official that:

- Certifies the applicant has legal authority and responsibility to remove debris from private property;

- 2692 ▪ Cites all applicable sources of authority (law, ordinance, code, contract, etc.); and
- 2693 ▪ Indemnifies the federal government for any claim arising from the debris removal.

2694 Public Interest

2695 The applicant must demonstrate that the PPDR was in the public interest.²³⁸ This includes:

- 2696 ▪ The basis for the assertion that removing the debris from the private property locations requested was in
2697 the public interest. The assertion must be made by the state, tribal, territorial, county, or municipal
2698 government's public health authority or other public entity that has legal authority to assert that disaster-
2699 generated debris on private property constitutes an immediate threat to life, public health, or safety, or
2700 to the economic recovery of the community at large.
- 2701 ▪ The established, specific legal requirements for declaring the existence of a threat to public health and
2702 safety.

2703 FEMA evaluates the submission to determine if PPDR is in the public interest for any properties or area of
2704 properties for which the applicant has requested funding for debris removal. When evaluating PPDR funding
2705 requests, FEMA considers if the incident generated debris in quantities and/or types on non-commercial or
2706 commercial private property that is so widespread or of such magnitude that it creates a threat to public
2707 health, safety, or improved property. FEMA may also consider factors such as social vulnerability, the
2708 percentage of homes destroyed in the community or census designated area, community density, watershed
2709 exposure, the fire hazard severity zone (FHSZ) of the area, and the cost of hazardous debris removal.

2710 DEBRIS REMOVAL FROM PRIVATE ROADS

2711 Private roads are those that are not owned by, or operated by, or otherwise the legal responsibility of a public
2712 entity such as orphan roads, roads in gated communities, or homeowners' association roads.



2713 Terminology: Orphan Roads

2714 An **orphan road** is a road that an applicant or public entity does not have the legal responsibility to
2715 maintain.

2716 If the public has unrestricted access (e.g., no locks, gates, or guards) and frequently uses the private road,
2717 then removal and disposal of the debris is demonstrably in the public interest. This work includes debris
2718 placed at the curbside by residents. The applicant is generally not required to submit additional
2719 documentation demonstrating the debris removal is in the public interest.

2720 If the public has restricted road access (e.g., behind locks, gates, or guards) or the private roads are
2721 unrestricted but rarely used by the public, then the applicant must demonstrate that such debris removal is
2722 in the public interest. FEMA has the authority to determine whether such debris removal is eligible.

²³⁸ Stafford Act § 407, 42 U.S.C. § 5173; 44 C.F.R. § 206.224(b).

2723 Debris removal from private roads does not include debris on private driveways or parking lots. Debris
2724 clearance (e.g., push or cut and toss) for emergency access may be eligible as Category B work if it meets
2725 the criteria in Chapter 7: *Emergency Access*.

2726 **DEBRIS REMOVAL FROM PRIVATE NON-COMMERCIAL PROPERTY**

2727 Debris removal from private non-commercial property is usually not in the public interest because the debris
2728 does not typically represent an immediate threat to public health and safety.²³⁹ If the incident generates
2729 debris quantities and/or types of debris on non-commercial property that is so widespread or of such
2730 magnitude that it creates an immediate threat to public health and safety, debris removal may be in the
2731 public interest. To determine if removal of debris from private residential property is in the public interest,
2732 FEMA evaluates the public health determination, and will consider:

- 2733 ▪ Whether the debris is located in open areas accessible to the public (e.g., in a yard with no fence or
2734 barrier next to a public sidewalk), located in maintained areas, or creating a health and safety hazard,
2735 such as a rodent infestation;
- 2736 ▪ Volume of debris;
- 2737 ▪ Height of debris;
- 2738 ▪ Number of houses and blocks with large volumes of debris; and
- 2739 ▪ Amount of the public population affected.

2740 **DEBRIS REMOVAL FROM PRIVATE COMMERCIAL PROPERTY**

2741 Removal of debris from commercial property is generally ineligible as it is expected that commercial
2742 enterprises retain insurance covering debris removal. Therefore, applicants are encouraged to obtain FEMA's
2743 pre-approval in writing for debris removal from commercial properties prior to beginning the work.

2744 In very limited, extraordinary circumstances, such as when critical facilities are involved, the cost of restoring
2745 damaged infrastructure in a localized area is extremely high, or there is a high concentration of debris, the
2746 FEMA Regional Administrator may provide an exception. In such cases, the applicant must meet the
2747 requirements above.

2748 **DUPLICATION OF BENEFITS IN PRIVATE PROPERTY DEBRIS REMOVAL**

2749 The applicant must work with private property owners to pursue and recover insurance proceeds and credit
2750 FEMA the federal share of any insurance proceeds received.²⁴⁰ In some circumstances, FEMA may provide
2751 Individual Assistance (IA) to individuals for debris removal; consequently, FEMA PA staff will coordinate
2752 closely with IA staff to ensure FEMA does not fund the same work under both programs.

2753 **Emergency Protective Measures (Category B)**

2754 Emergency protective measures conducted before, during, and after an incident are eligible if the measures:

²³⁹ 44 C.F.R. § 206.224

²⁴⁰ Stafford Act § 312.

- 2755 ■ Eliminate or lessen immediate threats to lives, public health or safety; or
- 2756 ■ Eliminate or lessen immediate threats of significant additional damage to improved public or private
- 2757 property in a cost-effective manner.²⁴¹

2758 FEMA may require certification by federal or SLTT government officials that a threat exists, including:

- 2759 ■ Identification and evaluation of the threat; and
- 2760 ■ Recommendations of the work necessary to cope with the threat.²⁴²

2761 **Environmental and Historic Preservation Considerations for Emergency Protective**

2762 **Measures**

2763 Although emergency protective measures are usually statutorily excluded from NEPA review,²⁴³ this is not
2764 always the case. Additionally, FEMA must ensure compliance with other federal laws, regulations, and EOs
2765 prior to funding the work. Accordingly, FEMA must ensure that the applicant’s emergency protective
2766 measures avoid impacts to resources such as floodplains, wetlands, federally listed threatened and
2767 endangered species and their critical habitats, and historic properties. Additional coordination may be
2768 necessary for projects such as, but not limited to, any ground-disturbing activity, demolition of structures,
2769 mold abatement, new construction related to the temporary relocation of emergency services, mosquito
2770 abatement, disposal of contaminated sandbags, or the construction of temporary levees, roadways, or
2771 bridges. For a more information on EHP review and considerations above, see Chapter 10: *Emergency Work*.

2772 **Saving Lives and Protecting Public Health and Safety**

2773 Emergency protective measures save lives or protect public health and safety. Eligible emergency protective
2774 measures include, but are not limited to:

- 2775 ■ Transporting and pre-positioning equipment and other resources for response;
- 2776 ■ Flood fighting;
- 2777 ■ Emergency Operations Center (EOC);
- 2778 ■ Provision of emergency access;
- 2779 ■ Provision of supplies and commodities;
- 2780 ■ Medical care and transport;
- 2781 ■ Evacuation and sheltering, including that provided by another state or tribal government;
- 2782 ■ Childcare services provided in support of emergency sheltering;
- 2783 ■ Building Safety inspections;
- 2784 ■ Animal carcass removal;²⁴⁴
- 2785 ■ Demolition of structures;²⁴⁵

²⁴¹ 44 C.F.R. § 206.225(a)(3).

²⁴² 44 C.F.R. § 206.225(a)(2).

²⁴³ Stafford Act § 316, 41 U.S.C. § 5159.

²⁴⁴ 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 emergency protective measure operation under Category B.

²⁴⁵ FEMA usually reimburses demolition of a public structure as part of the Permanent Work project to replace the facility.

- 2786 ▪ Debris clearance and removal;²⁴⁶
- 2787 ▪ Search and rescue to locate survivors, household pets, and service animals requiring assistance;
- 2788 ▪ Firefighting;
- 2789 ▪ Security, such as barricades, fencing, or law enforcement;
- 2790 ▪ Use or lease of temporary generators for facilities that provide essential community services;
- 2791 ▪ Dissemination of information to the public in an accessible and effective manner to provide warnings
- 2792 and guidance about health and safety hazards using various strategies, such as flyers, public service
- 2793 announcements, or newspaper campaigns;
- 2794 ▪ Searching to locate and recover human remains;
- 2795 ▪ Storage and interment of unidentified human remains; and
- 2796 ▪ Mass mortuary services.²⁴⁷

2797 The following are eligible under limited circumstances based on specific criteria described in each of the
2798 referenced sections:

- 2799 ▪ Increased costs related to operating a facility or providing a service as a result of the incident because of
- 2800 an increased demand for the services the facility provides (see Chapter 6: *Increased Operating Costs*);
- 2801 ▪ Mosquito abatement (see Chapter 7: *Mosquito Abatement*);
- 2802 ▪ Temporary relocation of essential services (see Chapter 7: *Temporary Relocation of Essential Services*);
- 2803 and
- 2804 ▪ Snow-related activities when specifically authorized in the declaration (see Chapter 7: *Snow-Related*
- 2805 *Activities* and Appendix D: *Snow Assistance*).

2806 Protecting Improved Property



2807 Terminology: Improved Property

2808 **Improved property** means a structure, facility or item of equipment which was built, constructed, or
2809 manufactured. Land used for agricultural purposes is not improved property.

2810 Eligible emergency protective measures to protect improved property include, but are not limited to:

- 2811 ▪ Constructing emergency berms or temporary levees to provide protection from floodwaters or landslides;
- 2812 ▪ Emergency repairs necessary to prevent further damage, such as covering a damaged roof to prevent
- 2813 infiltration of rainwater;
- 2814 ▪ Buttressing, shoring, or bracing facilities to stabilize them or prevent collapse;

²⁴⁶ Stafford Act 403(a)(3)(A).

²⁴⁷ FEMA may provide PA assistance for mass casualty management, including mass mortuary services, as part of recovery from an incident generating a large number of casualties. However, PA does not cover individual burial or funeral services. FEMA's Individual Assistance (IA) Funeral Assistance Program, if activated, may provide limited assistance to individuals and households.

- 2815 ▪ Emergency slope stabilization to eliminate a threat of significant additional damage to improved public
2816 or private property;²⁴⁸
- 2817 ▪ Mold remediation to prevent further damage to the facility and its contents, such as removal of water
2818 damaged building materials;
- 2819 ▪ Removal and storage of contents from eligible facilities for the purpose of minimizing additional damage;
- 2820 ▪ Extracting water and clearing mud, silt, or other accumulated debris from eligible facilities if the work is
2821 conducted expeditiously for the purpose of addressing an immediate threat (if the work is only necessary
2822 to restore the facility, it is Permanent Work, not Emergency Work);
- 2823 ▪ Taking actions to save the lives of animals that are eligible for replacement (see Chapter 8: *Animals*).

2824 **Emergency Protective Measures on Private Property**

2825 In limited circumstances, FEMA may determine that emergency protective measures conducted on private
2826 property are eligible under the PA Program if:

- 2827 ▪ The immediate threat is widespread, affecting numerous homes and businesses such that it is a threat
2828 to the health and safety of the general public;
- 2829 ▪ The applicant has legal authority to perform the work; and
- 2830 ▪ The applicant obtained rights-of-entry and agreements to indemnify and hold harmless the federal
2831 government.

2832 Situations where this may occur are generally limited to:

- 2833 ▪ Demolition of unsafe private structures that endanger the public (Chapter 7: *Demolition of Private*
2834 *Structures*);
- 2835 ▪ Animal carcasses removal
- 2836 ▪ Installation of fiber-reinforced sheeting to cover damaged roofs, commonly referred to as Operation Blue
2837 Roof (Direct Federal Assistance only) (Chapter 7: *Operation Blue Roof*);
- 2838 ▪ Provision of emergency access (Chapter 7: *Emergency Access*);
- 2839 ▪ Pumping of septic tanks or decontamination of wells causing a pollution threat (Chapter 7: *Hazardous*
2840 *Materials*);
- 2841 ▪ Building Safety Inspections (Chapter 7: *Building Safety Inspections* and Chapter 8: *Preliminary Building*
2842 *Safety Screening and Building Safety Inspections*); and
- 2843 ▪ Stabilizing a slope (Chapter 7: *Slope Stabilization*).

2844 Upon submittal of its claim, the applicant must include the following support documentation for the work to
2845 be eligible:

- 2846 ▪ A detailed explanation documenting the applicant’s legal authority and responsibility to enter private
2847 property;
- 2848 ▪ The basis for the determination that a threat exists to the general public; and
- 2849 ▪ Copies of the rights-of-entry and agreements to indemnify and hold harmless the federal government.

²⁴⁸ 44 C.F.R. § 206.225(a)(3).

2850 If the above criteria are not met, the private property owner may be eligible for assistance under FEMA's
2851 Individual Assistance (IA) Program. FEMA PA and IA staff will coordinate closely to ensure FEMA does not
2852 fund the same work under both programs.

2853 **Emergency Protective Measures Conducted by Private Nonprofit Organizations**

2854 For eligible PNPs, emergency protective measures are generally limited to activities associated with
2855 preventing damage to an eligible facility and its contents.

2856 Emergency services are the responsibility of SLTT governments. Therefore, PNPs are generally not legally
2857 responsible for those services and FEMA does not provide PA funding to PNPs for the costs associated with
2858 providing those services. However, when a PNP provides emergency services at the request of, and certified
2859 by, the legally responsible SLTT government entity, FEMA provides PA funding through that government
2860 entity as the eligible applicant. These services include:

- 2861 ▪ Fire and rescue activities;
- 2862 ▪ Animal control;
- 2863 ▪ Emergency ambulance service for evacuation;
- 2864 ▪ 211 call services, if tracked and related to eligible work; and
- 2865 ▪ Other similarly urgent governmental services.

2866 PNPs that own or operate a medical or custodial care facility are eligible for direct reimbursement of costs
2867 related to patient evacuation. In limited circumstances, FEMA may also reimburse a PNP directly when
2868 essential components of a facility are urgently needed to save lives or protect health and safety, such as an
2869 emergency room of a PNP hospital or a PNP sewage or water treatment plant.

2870 FEMA may reimburse a volunteer fire department directly as an eligible applicant, if:

- 2871 ▪ The PNP volunteer fire department operates based on an established agreement with an SLTT
2872 government; and
- 2873 ▪ The agreement certifies the PNP volunteer fire department is legally authorized to provide emergency
2874 services in areas of coverage specifically designated by the SLTT government.

2875 **Pre-positioning Resources (i.e., Equipment and Supplies)**

2876 Costs related to pre-positioning of resources, specifically equipment and supplies, for the declared incident
2877 are eligible if the resources are used in the performance of eligible Emergency Work. For more information
2878 regarding pre-positioning of labor see Chapter 6.

2879 Additionally, costs related to pre-positioning equipment and supplies outside of the declared area are eligible
2880 when related to conducting search and rescue, evacuation, sheltering, or providing emergency medical care
2881 during the evacuation period (such as ambulances and buses) provided the resources were ultimately used
2882 for the declared area.

2883 **Increased Operating Costs**

2884 The applicant may incur increased costs related to operating a facility or providing a service as a result of the
2885 incident because of an increased demand for the services the facility provides.

2886 These additional costs are only eligible if:

- 2887 ▪ The services are specifically related to eligible emergency actions to save lives or protect public health
2888 and safety or improved property in response to the declared incident;
- 2889 ▪ The costs are for a limited timeframe based on the emergency or exigency of the circumstances; and
- 2890 ▪ The applicant tracks and documents the additional costs.

2891 Increased operating costs that may be eligible for a limited time, include but are not limited to, costs for:

- 2892 ▪ Water testing and treatment, including supplies, in the immediate aftermath of the incident to counter a
2893 specific threat; and
- 2894 ▪ Fuel for increased use of a pumping station.

2895 Increased operating costs that are ineligible, even for a limited time, include but are not limited to, costs for:

- 2896 ▪ Patient care, except as noted in Chapter 7: *Medical Care*;
- 2897 ▪ Administrative activities;
- 2898 ▪ Provision of food, except as noted in Chapter 7: *Supplies and Commodities and Meals*;
- 2899 ▪ Costs related to staff that were retained to work additional hours, but did not perform eligible Emergency
2900 Work (e.g., staff working additional shifts due to other staff's inability to get to work);
- 2901 ▪ Obtaining electrical power from an alternate source;
- 2902 ▪ Obtaining water from an alternate source;
- 2903 ▪ School make-up days, including contracted costs for bus service for make-up days;
- 2904 ▪ Provision of school bus service including fuel or mileage for transporting students from alternate
2905 locations or to alternate schools or temporary facilities; and
- 2906 ▪ Modification or construction of a new landfill to add landfill capacity.

2907 For PNPs, operating costs are generally ineligible even if the services are emergency services, unless the
2908 PNP performs an emergency service at the request of and certified by the legally responsible government
2909 entity. In such case, FEMA provides PA funding through that government entity as the eligible applicant.

2910 **Emergency Public Transportation and Communication (DFA Only)**

2911 An SLTT government may provide emergency communication services and public transportation when
2912 existing systems are damaged to the extent vital functions of community life or incident response are
2913 disrupted. The costs of these services are ineligible for reimbursement. However, FEMA may provide short-
2914 term DFA for these services.²⁴⁹ Transportation costs for the purpose of evacuation are eligible for
2915 reimbursement as described in Chapter 7: *Evacuation and Sheltering*.

²⁴⁹ Stafford Act §§ 418 and 419, 42 U.S.C. §§ 5185 and 5186; 44 C.F.R. § 206.225(c) and (d).

2916 Flood Fighting

2917 Flood fighting activities may include, but are not limited to, sandbagging, dewatering behind a levee by
2918 breaching or pumping, or increasing the height of a levee. These activities are eligible if necessary to reduce
2919 an immediate threat to life, public health and safety, or improved property. These activities are eligible even
2920 if they are associated with a facility that is eligible for the USACE RIP, as USACE cannot reimburse the
2921 applicant for flood fighting.

2922 The repair of deliberate breaches made by the applicant to accomplish dewatering is eligible as part of the
2923 Emergency Work project.

2924 Dewatering agricultural and natural areas behind levees and other water control structures is ineligible.

2925 Emergency Operations Centers

2926 The applicant may use its EOC to direct and coordinate resources and response activities for a period of
2927 time. Response activities conducted at EOCs are eligible provided they are associated with eligible work.
2928 Costs associated with operating the EOC are also eligible, including, but not limited to:

- 2929 ▪ Increased utility costs;
- 2930 ▪ Costs to lease a facility;
- 2931 ▪ Supply costs; and
- 2932 ▪ Meal costs, as described in Chapter 7: *Meals*.

2933 Emergency Access

2934 There are times when the declared incident causes damage or debris blockage to access routes to an
2935 essential community service, or to a community with survivors. If the extent of damage or blockage makes
2936 these areas cut off or isolated, work related to providing access is eligible. This includes clearing debris from
2937 or conducting emergency repairs to an access facility, such as a road or bridge. Eligible work is limited to
2938 that necessary for the access to remain passable. Any debris removal or additional debris clearance is
2939 Category A and funded based on the criteria in Chapter 7: *Debris Removal (Category A)*.

2940 Private roads are those that are not owned or operated by or otherwise the legal responsibility of a local,
2941 county, tribal, territorial, state, or federal entity. Emergency road clearance includes pushing or clearing
2942 debris from private roads, including orphan roads, roads in gated communities, homeowners' association
2943 roads, etc. Debris clearance must be in the public interest and is eligible if the debris impairs emergency
2944 access by local emergency responders, ambulances, fire, and police. For example, downed trees may be cut
2945 and moved off the roadway. Eligible work is limited to that necessary for roads to remain passable but might
2946 include removal and disposal during the initial pass as necessary to ensure emergency access. The
2947 applicant is not required to submit documentation demonstrating that debris clearance is in the public
2948 interest.

2949 The applicant must complete all necessary legal processes or obtain rights-of-entry and agreements to
2950 indemnify and hold harmless the federal government.

2951 Emergency repairs to privately-owned roads, including those within gated communities, are eligible only
2952 when all of the following conditions are met:

- 2953 ▪ There is no other access point;
- 2954 ▪ Repair of the damage economically eliminates the need for temporary housing; and
- 2955 ▪ The applicant completes all legal processes and obtains rights-of-entry and agreements to indemnify and
2956 hold harmless the federal government.

2957 **Hazardous Materials**

2958 Removal and disposal of pollutants and hazardous substances are eligible. Eligible activities include:

- 2959 ▪ Separation of hazardous materials from other debris;
- 2960 ▪ Specialized procedures for handling and disposing of hazardous materials;
- 2961 ▪ Control or stabilization of the hazardous materials;
- 2962 ▪ Pumping water contaminated with the hazardous materials; and
- 2963 ▪ Clean-up and disposal of the hazardous materials.

2964 Short-term testing for contaminants in water, air, or soil necessary to ensure elimination of the immediate
2965 threat is eligible; however, testing for the purpose of long-term cleanup actions is ineligible.

2966 The applicant must comply with federal and SLTT government environmental requirements for handling
2967 hazardous materials. Before handling or disposing of hazardous materials, the applicant should contact the
2968 appropriate federal or SLTT agency to obtain required permits, notify proper agencies of hazardous materials
2969 storage, and coordinate the creation of any required facility specific Emergency Response Plans for spills,
2970 safety, and proper handling. Additionally, appropriate certified hazardous waste specialists should handle,
2971 capture, recycle, reuse, or dispose of hazardous materials. When providing PA funding for work involving the
2972 handling of hazardous materials, FEMA must ensure compliance with the Resource Conservation and
2973 Recovery Act (RCRA).²⁵⁰

2974 Additionally, the Comprehensive Environmental Response Compensation and Liability Act (CERCLA)²⁵¹
2975 authorizes the federal government to respond directly to releases or threatened releases of hazardous
2976 substances that may endanger public health or the environment. Under CERCLA and the Clean Water Act
2977 (CWA),²⁵² EPA²⁵³ and the USCG have the authority to respond to actual or potential discharges of oil,
2978 hazardous substances, pollutants, and contaminants that may present an imminent and substantial danger
2979 to public health or welfare. EPA has responsibility for responses in the inland zone and the USCG has
2980 responsibility for responses in the coastal zone. Response actions may include containment, stabilization,
2981 decontamination, collection (e.g., orphan tanks, drums), and disposal.

²⁵⁰ 42 U.S.C. § 6901 et seq.

²⁵¹ 42 U.S.C. §§ 9601–9675.

²⁵² 33 U.S.C. §§ 1251–1388.

²⁵³ 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.



Terminology: Inland and Coastal Zones

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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.

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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.

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Supplies and Commodities

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Costs related to the applicant purchasing supplies or using its own stock to perform Emergency Work are eligible and reimbursed in accordance with Chapter 6: *Supplies*. Examples include, but are not limited to, safety equipment, personal protective equipment, radios, power tools, sand, and tarps.

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Purchasing and packaging lifesaving and life-sustaining supplies and 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.



Figure11. Distribution of Supplies

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The cost of leasing distribution and storage space for the commodities is also eligible. Supplies and equipment purchased to provide emergency protective measures may be subject to disposition requirements in accordance with Chapter 6: *Disposition of Purchased Equipment and Supplies*.

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Meals

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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:

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- Meals are required based on a labor policy or written agreement that meets the requirements of Chapter 6. *Cost Eligibility*;
- 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.

3017 FEMA only reimburses the cost of meals that are brought to the work location and purchased in a cost-
3018 effective and reasonable manner, such as bulk meals. FEMA does not reimburse costs related to group
3019 outings at restaurants or individual meals.²⁵⁴

3020 **Emergency Medical Care**

3021 When the emergency medical delivery system within a declared area is destroyed, severely compromised, or
3022 overwhelmed, FEMA may fund extraordinary costs associated with operating emergency rooms and with
3023 providing temporary facilities for emergency medical care of survivors. Costs associated with emergency
3024 medical care should be customary for the emergency medical services provided. Costs are eligible for up to
3025 30 days from the declaration date unless the applicant obtains FEMA approval for any time extension, which
3026 should include a detailed justification for the continued need and an analysis of options for providing care,
3027 including the costs for each option. The Assistant Administrator for the Recovery Directorate at FEMA
3028 Headquarters has the authority to approve this policy exception.

3029 Eligible emergency medical care includes, but is not limited to:

- 3030 ▪ Triage and medically necessary tests and diagnosis;
- 3031 ▪ Treatment, stabilization, and monitoring;
- 3032 ▪ Patient assessment and provision of first aid;
- 3033 ▪ A one-time 30-day supply of prescriptions for acute conditions or to replace maintenance prescriptions;
- 3034 ▪ Vaccinations for survivors and emergency workers to prevent outbreaks of infectious and communicable
3035 diseases;
- 3036 ▪ Durable medical equipment;
- 3037 ▪ Consumable medical supplies;
- 3038 ▪ Temporary facilities, such as tents or portable buildings for treatment of survivors;
- 3039 ▪ Leased or purchased equipment for use in temporary medical care facilities;
- 3040 ▪ Security for temporary medical care facilities; and
- 3041 ▪ Use of ambulances for distributing immunizations and setting up mobile medical units.

²⁵⁴ FEMA reimburses meal costs as part of a contract in accordance with the contract terms provided it meets the requirements in Chapter 6: *Procurement and Contracting Requirements*.



Terminology: Medical Equipment and Supplies

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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

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

- Medications
- Diapers
- Adult incontinence briefs
- Bandages

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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 cost in relation to its charges).

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FEMA does not provide PA funding for these costs if underwritten by private insurance, Medicare, Medicaid, a pre-existing private payment agreement or otherwise covered by another funding source.²⁵⁵ 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.

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Ineligible costs include:

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- Medical care costs incurred once a survivor is admitted to a medical facility on an inpatient basis;
- Medical care costs incurred beyond immediate emergency medical care, such as those associated with follow-up treatment or long-term medical treatment; and,
- Administrative costs associated with the treatment of survivors.

²⁵⁵ Stafford Act § 312, 42 U.S.C. § 5155.

3069 Evacuation and Sheltering

3070 EVACUATION

3071 Transportation to evacuate (and subsequently return) survivors, household pets,²⁵⁶ service animals,²⁵⁷
 3072 assistance animals,²⁵⁸ luggage, and durable medical equipment is eligible. This includes emergency medical
 3073 transportation and evacuation. The mode of transportation should be customary and appropriate for the
 3074 work required. Evacuation of exhibition or agricultural/livestock animals and reptiles, except turtles, is not
 3075 eligible.



3076 Terminology: Household Pets, Service and Assistance Animals

3077 **Household pets** are domesticated animals that:

- 3078 ▪ Are traditionally kept in the home for pleasure rather than for commercial purposes;
- 3079 ▪ Can be transported through commercial carriers²⁵⁹; and
- 3080 ▪ Can be housed in temporary facilities.

3081 Examples are dogs, cats, birds, rabbits, rodents, and turtles.

3082 Household pets do not include reptiles (except turtles), amphibians, fish, insects, arachnids, farm
 3083 animals (including horses), or animals kept for racing purposes.

3084 Under the Americans with Disabilities Act (ADA), a **service animal** is defined as a dog that has been
 3085 individually trained to do work or perform tasks for an individual with a disability. The task(s)
 3086 performed by the dog must be directly related to the person's disability.

3087 **Assistance animals** are animals that work, provide assistance, or perform tasks for the benefit of a
 3088 person with a disability, or provide emotional support that alleviates identified symptoms or effects of
 3089 a person's disability. Although dogs are the most common type of assistance animal, other animals
 3090 can also be assistance animals.

3091 Eligible activities include, but are not limited to:

- 3092 ▪ Transferring patients from inoperable, compromised, or overwhelmed eligible medical or custodial care
 3093 facilities to another medical facility or to an appropriate shelter facility;
- 3094 ▪ Transferring patients back to original medical or custodial care facility, when appropriate;
- 3095 ▪ Transporting survivors, including sheltered survivors, who require emergency medical care to and from
 3096 the nearest existing or temporary medical care facility equipped to adequately treat the medical
 3097 emergency. Transport may include emergency air, sea, or ground ambulance services if necessary;

²⁵⁶ The definition of household pets was developed by PA for the purpose of determining eligibility of work and costs under the PA grant program and does not impose restrictions on what animals a jurisdiction may choose to evacuate and/or shelter.

²⁵⁷ Service animals are defined by the Department of Justice (DOJ), and more information may be accessed at ADA 2010 Revised Requirements: Service Animals; "In addition to the provisions about service dogs, the Department's ADA regulations have a separate provision about miniature horses that have been individually trained to do work or perform tasks for people with disabilities."

²⁵⁸ The definition for assistance animals was developed based on information from HUD.

²⁵⁹ In this instance, the term "carrier" means a transportation service provider as opposed to a container in which an animal is transported.

- 3098 ▪ Use of equipment such as buses, trucks, or other vehicles (including accessible vehicles) to provide one-
3099 time transportation to evacuate survivors and their household pets and service and assistance animals
3100 to evacuation facilities or emergency shelters from pre-established pick-up locations. This includes
3101 standby time for drivers and contracted equipment while waiting to transport survivors;
 - 3102 ▪ Paratransit transportation services, such as vans, minibuses, and buses (including accessible vehicles)
3103 to transport senior citizens, individuals with disabilities (including mobility disabilities) or access and
3104 functional needs, individuals in nursing homes and assisted-living facilities, and homebound individuals
3105 impacted by the incident;
 - 3106 ▪ Tracking of evacuees, household pets, service animals, luggage, and durable medical equipment. This
3107 includes the use of animal microchips for the purpose of tracking evacuated animals;
 - 3108 ▪ Provision of food and hydration during transport;
 - 3109 ▪ Provision of emergency medical care during transport, including emergency medical personnel and
3110 supply costs;
 - 3111 ▪ Stabilization of individuals injured during evacuation; and
 - 3112 ▪ Preparation necessary in advance of an incident for evacuations in
3113 threatened areas including mobilization of ambulances and other
3114 transport equipment.
- 3115 Contracts for staging ambulance services must be part of the state,
3116 territorial, tribal, or regional evacuation plan. Costs of staging
3117 ambulances are eligible even if the incident does not impact the area
3118 normally served by those ambulances. PA funding for activating,
3119 staging, and using ambulance services ends when any of the following
3120 occurs:
- 3121 ▪ FEMA and the state, territorial, or tribal government determines that the incident did not impact the area
3122 where it staged ambulances;
 - 3123 ▪ Evacuation and return of medical patients and individuals with disabilities or access and functional needs
3124 is complete; or
 - 3125 ▪ The immediate threat caused by the incident has been eliminated or lessened and the demand for
3126 services has returned to normal operation levels.
- 3127 FEMA does not provide funding for costs related to:
- 3128 ▪ Ambulance services that are covered by private insurance, Medicare, Medicaid, or a pre-existing private
3129 payment agreement;²³⁵
 - 3130 ▪ Self-evacuee transportation.



Figure 10. Staging Area with Ambulances

3131 **SHELTERING**

3132 FEMA provides PA funding to SLTT government applicants for costs related to emergency sheltering for
3133 survivors, and their household pets,²⁶⁰ service animals,²⁶¹ assistance animals. Although SLTT governments
3134 may contract with other sheltering providers for such services, FEMA only provides PA funding directly to the
3135 SLTT government as it is legally responsible for the work.

3136 Emergency sheltering is meant to provide disaster survivors with safe, sanitary, and secure shelter during
3137 emergencies in facilities that are intended to provide temporary refuge for all members of the community,
3138 including children and adults requiring functional needs' support services. Typically, emergency sheltering is
3139 congregate.

3140 **Congregate Sheltering**

3141 Congregate shelter funding includes reimbursement for eligible costs related to the shelter facility, shelter
3142 staff, shelter supplies and commodities, and shelter services. These eligible costs for congregate sheltering
3143 are based on the type of shelter and the specific needs of the sheltered survivors.

3144 Eligible costs for congregate sheltering are covered in more detail within the following subsections. If any of
3145 the items listed are donated, including labor, the applicant may offset the non-federal cost share of its
3146 eligible Emergency Work projects in accordance with Chapter 6: *Donated Resources*. Eligible costs may only
3147 be reimbursed for the time the facility is actively used to shelter disaster victims.

3148 Congregate sheltering costs not listed in the four groupings below may be eligible for reimbursement on an
3149 incident specific basis. Applicants should consult FEMA PA staff for guidance.

3150 **Congregate Shelter Facility Costs**

3151 Eligible congregate shelter facility costs include:

- 3152 ▪ Facility lease or rent, including space for food preparation;
- 3153 ▪ Utilities such as power, water, telephone, and Internet service;
- 3154 ▪ Minor facility modifications if necessary to make the facility:
 - 3155 ○ Habitable,
 - 3156 ○ compliant with the Americans with Disabilities Act (ADA),²⁶²
 - 3157 ○ functional to support ancillary services such as childcare facility, or
 - 3158 ○ functional as a household pet shelter;
- 3159 ▪ Restoration to return the facility to its condition prior to use;²⁶³

²⁶⁰ The definition of household pets was developed by PA for the purpose of determining eligibility of work and costs under the PA grant program and does not impose restrictions on what animals a jurisdiction may choose to evacuate and/or shelter.

²⁶¹ Service animals are defined by the Department of Justice (DOJ), and more information may be accessed at [ADA 2010 Revised Requirements: Service Animals](#); "In addition to the provisions about service dogs, the Department's ADA regulations have a separate provision about miniature horses that have been individually trained to do work or perform tasks for people with disabilities."

²⁶² The applicant should ensure that the facility is in compliance with the ADA standards.

²⁶³ If more than cleaning and minor repairs to the building are needed, applicants should consult FEMA regarding work eligibility.

- 3160 ▪ Generator costs; and
- 3161 ▪ Secure storage space for medical supplies.
- 3162 If an eligible SLTT government applicant owns or leases the shelter facility, and a volunteer agency operates
- 3163 the shelter, the facility costs described above are eligible. However, the labor costs for the volunteer
- 3164 agency's workers are ineligible (except as a donated resource in accordance with the criteria in Chapter 6:
- 3165 *Donated Resources*).

3166 **Congregate Shelter Staff Costs**

3167 Eligible shelter staff costs for congregate facilities include:

- 3168 ▪ Medical staff;
- 3169 ▪ Personal assistance service staff;
- 3170 ▪ Veterinary and animal care staff;
- 3171 ▪ Public Information Officer;
- 3172 ▪ Social workers (for crisis intervention/psychological first aid, and/or possibly to support transition out of
- 3173 the shelter);
- 3174 ▪ Food service workers;
- 3175 ▪ Custodial and facilities staff; and
- 3176 ▪ National Guard personnel (See Chapter 6: *National Guard*).

3177 **Congregate Shelter Supplies and Commodities**

3178 Eligible items are those needed for, and used directly on, the declared disaster and are reasonable in both

3179 cost and need. Eligible supplies and commodities for congregate shelters include:

- 3180 ▪ Hot and cold meals, snacks, beverages, and related supplies for survivors;
- 3181 ▪ Cooking and serving supplies;
- 3182 ▪ Food, water, and bowls for household pets and service and assistance animals;
- 3183 ▪ Durable medical equipment;
- 3184 ▪ Consumable medical supplies;
- 3185 ▪ Medication for animal decontamination and parasite control;
- 3186 ▪ Infant formula, baby food, and diapers;
- 3187 ▪ Refrigerators, microwaves, and crock pots;
- 3188 ▪ Cots, cribs, linens, blankets, pillows, tables, and chairs;
- 3189 ▪ Crates, cages, leashes, and animal transport carriers;
- 3190 ▪ Personal hygiene kits with items such as shampoo, soap, toothpaste, a toothbrush, towels, and
- 3191 washcloths;
- 3192 ▪ Animal cleaning tables and supplies;
- 3193 ▪ Televisions or radios – one per 50 sheltered survivors;
- 3194 ▪ Basic cable service;

- 3195 ▪ Computers – one per 25 shelterees;
- 3196 ▪ Internet service, including Wi-Fi;
- 3197 ▪ Washers and dryers – one of each per 50 shelterees; and
- 3198 ▪ Toys and books.

3199 **Congregate Shelter Services**

3200 Shelter services are only eligible for the time the facility is actively used to shelter survivors. Eligible shelter
3201 services for congregate facilities include:

- 3202 ▪ Shelter management;
- 3203 ▪ Supervision of paid and volunteer staff;
- 3204 ▪ Cleaning the shelter, linens, and animal crates;
- 3205 ▪ Shelter safety and security;
- 3206 ▪ Use of equipment, such as ambulances, buses, trucks, or other vehicles, to provide sheltering support;
- 3207 ▪ Phone banks and Internet access for survivors;
- 3208 ▪ Care for survivors with disabilities or access and functional needs, including the provision of the
3209 following personal assistance services:
 - 3210 ○ Grooming, eating, walking, bathing, toileting, dressing, and undressing;
 - 3211 ○ Transferring (e.g., movement between a cot and wheelchair or wheelchair to restroom facilities);
 - 3212 ○ Maintaining health and safety;
 - 3213 ○ Assisting with self-administering medications; and
 - 3214 ○ Communicating or accessing programs and services (e.g., translation and interpretation services for
3215 individuals with limited English proficiency or accessible communication services for individuals with
3216 disabilities);
- 3217 ▪ Emergency medical and veterinary services for sheltered survivors, household pets, and service and
3218 assistance animals, including:
 - 3219 ○ Emergency and immediate life stabilizing care, including necessary prescriptions (not to exceed a
3220 30-day supply);
 - 3221 ○ Triage, medically necessary tests, diagnosis, treatment, stabilization, and monitoring;
 - 3222 ○ Patient assessment;
 - 3223 ○ Provision of first aid and health information;
 - 3224 ○ Care for evacuees with chronic conditions;
 - 3225 ○ Administering vaccinations to sheltered survivors and workers for transmissible or contagious
3226 diseases, including, but not limited to, tetanus and hepatitis;
 - 3227 ○ Administering vaccinations to household pets, and service and assistance animals, for transmissible
3228 or contagious diseases, including, but not limited to, Bordetella (kennel cough). The vaccinations
3229 need to be effective while the animal is in the shelter; and
 - 3230 ○ Medical waste disposal;

- 3231 ▪ Outpatient costs for sheltered survivors requiring emergency life-sustaining treatment not available at
3232 the shelter for the period of time that a survivor is housed in the shelter. Eligible outpatient services are
3233 limited to:
 - 3234 ○ Physician services in a hospital outpatient department, urgent care center, or physician’s office;
 - 3235 ○ Related outpatient hospital services and supplies, including X-rays, laboratory and pathology services,
3236 and machine diagnostic tests; and
 - 3237 ○ Local professional transport services to and from the nearest hospital equipped to adequately treat
3238 the emergency.
 - 3239 ▪ Sheltering self-evacuees (self-evacuee transportation costs are ineligible); and
 - 3240 ▪ Costs paid to the American Red Cross (ARC) or other Non-governmental Organizations (NGOs) to operate
3241 shelters under a written agreement (costs that ARC or other NGOs incur under their own organizational
3242 mission – i.e., independent of any federal or SLTT request – are ineligible for reimbursement).
- 3243 Note: Transportation of shelter residents to and from (other than for the medical purpose referenced above)
3244 the shelter is not an eligible sheltering activity. Additionally, costs incurred in the provision of disaster case
3245 management and/or mental/behavioral health services are ineligible unless the mental/behavioral health
3246 services are provided as an accommodation to survivors with disabilities.

3247 **Non-Congregate Sheltering**

3248 FEMA may reimburse costs related to emergency sheltering provided in non-congregate environments in
3249 limited and exigent circumstances. Non-congregate sheltering (NCS) does not require pre-approval when
3250 conducted in traditionally operated facilities like hotels, motels, dormitories, and retreat camps which offer
3251 an increased level of privacy over congregate sheltering. NCS activity in any other facility (e.g., recreation
3252 vehicles, ships) requires FEMA pre-approval by the Assistant Administrator for the Recovery Directorate at
3253 FEMA Headquarters.



3254 **Examples: Exigent Circumstances where NCS may be Considered**

3255 NCS will be considered for approval in limited, exigent circumstances, such as when congregate
3256 shelter facilities are:

- 3257 ▪ Not available due to the nature of the incident (e.g., identified shelter facilities were damaged by
3258 the incident);
- 3259 ▪ Insufficient to meet the need for sheltering; or,
- 3260 ▪ No longer available for use if owners of facilities used as congregate shelters require their return to
3261 their routine purpose or use, resulting in cessation of shelter operations.

3262 When providing NCS, as a condition of assistance, recipients and applicants must comply with all statutes,
3263 regulations, and EOs, including those that require non-discrimination and equitable delivery of FEMA funding
3264 to underserved communities. FEMA monitors compliance with these laws when granting assistance. Failure
3265 to adhere to these laws may result in the termination of or refusal to grant or continue providing federal
3266 financial assistance.

3267 **Requests for Non-Congregate Sheltering**

3268 The applicant must submit a written request for work and costs related to NCS in non-traditionally operated
3269 facilities (e.g., recreation vehicles, ships) and obtain FEMA approval prior to sheltering survivors. At a
3270 minimum, the applicant should include the following information in its request:

- 3271 ▪ Justification for the necessity of non-congregate sheltering;
- 3272 ▪ Whether the state, tribal, or territorial government has requested the Transitional Sheltering Assistance
3273 (TSA) from FEMA's Individual Assistance (IA) Program;²⁶⁴
- 3274 ▪ The type of non-congregate sheltering available and which type the applicant intends to use;
- 3275 ▪ An analysis of the available options with the associated costs of each option; and
- 3276 ▪ The timeframe requested (i.e., date of activation and length of time).

3277 While selecting the location of NCS facilities, applicants are encouraged to consider community
3278 demographics to ensure underserved populations have equitable access to sheltering.

3279 To establish and conduct NCS in non-traditional facilities, such as recreational vehicles (RVs), the applicant
3280 must request this specifically and such requests must be approved by the Assistant Administrator for the
3281 Recovery Directorate at FEMA Headquarters. NCS provided in any setting other than traditional facilities
3282 (identified as hotels/motels, dormitories, and retreat camps) will be subject to additional disaster-specific
3283 requirements and guidance issued by FEMA.

3284 FEMA limits any NCS approval to that which is reasonable and necessary to address the needs of the
3285 incident (usually no more than 90 days). FEMA determines the eligible costs based on the contractual
3286 agreement, including reimbursement for repairing damage if it is the applicant's legal responsibility based
3287 on the facility use agreement or lodging services contract.

3288 If FEMA approves the request, the recipient must provide sufficient data and documentation to establish
3289 eligibility (including the need for NCS resulting from the disaster, reasonableness, and costs).

3290 **Eligible Costs for Non-Congregate Sheltering**

3291 NCS costs are based on a per night, per room amount. Unlike congregate sheltering, funding for NCS does
3292 not include separate reimbursement for facility, staff, service, or supply costs. Costs for items or services
3293 associated with NCS are eligible if included within the NCS per night, per room charges.

3294 Generally, feeding support and shelter support services are limited to the initial 30 days of NCS operations.
3295 These support services are only eligible for a longer period of time when routine access to food, other

²⁶⁴ FEMA's Transitional Sheltering Assistance provides short-term sheltering for survivors transitioning from emergency shelters to temporary or permanent housing solutions. Additional information is available in FEMA's Individual Assistance Program and Policy Guide at www.fema.gov/assistance/individual/program-policy-guide.

3296 supplies and commodities, and support services are disrupted by the disaster incident, and clearly
3297 documented when an applicant seeks reimbursement.

3298 Limited funding for casework in support of disaster survivor's transition to temporary or long-term housing
3299 options may be eligible.

3300 If an applicant is uncertain whether specific NCS-related costs would be considered eligible, they are
3301 encouraged to seek guidance from FEMA PA Regional staff before incurring such costs.

3302 **Ineligible Costs for Non-Congregate Sheltering**

3303 Ineligible costs include:

- 3304 ▪ Costs associated with ancillary services (e.g., room service, pay-per-view movies, parking fees, or other
3305 costs for *ala carte* amenities);
- 3306 ▪ Costs related to reserving rooms or deploying facilities (e.g., RVs as NCS) that go unoccupied by an
3307 identified, displaced disaster survivor individual or household requiring sheltering assistance;
- 3308 ▪ Costs related to any expense beyond a traditional per night, per room charge when providing NCS via
3309 hotel, motel, dormitory, or retreat camp (this includes damages to the facility by the disaster survivors);
3310 and
- 3311 ▪ Costs incurred in the provision of disaster case management and/or mental/behavioral health services.

3312 **Time Extensions for Non-Congregate Sheltering**

3313 When the applicant anticipates that the need for NCS will exceed the approved time period, the applicant
3314 must obtain FEMA approval for any time extensions. The applicant must submit a written time extension
3315 request through the recipient to the appropriate FEMA Regional Administrator. This request should include a
3316 detailed justification for the continued need and a revised analysis of options, including the costs for each
3317 option. Applicants should submit time extension requests at least seven calendar days before the expiration
3318 date of the currently approved period of performance.

3319 FEMA will use specific household criteria to determine eligibility of NCS work and costs beyond the initially
3320 approved period. To be eligible for provision of NCS, each household must:

- 3321 ▪ Be in an area (county or parish) designated for both the Individual Assistance (IA) and PA Programs
- 3322 ▪ Be registered with IA for disaster assistance;
- 3323 ▪ Have not requested to withdraw its IA registration;
- 3324 ▪ Be able to document pre-disaster status as an owner or renter of the primary residence; and
- 3325 ▪ Have their primary residence determined not to be habitable.

3326 The applicant may determine a household's habitability status using IA information, home assessment
3327 information, or a habitability assessment process developed by the applicant. The applicant must submit the
3328 habitability determination method with the time extension request. Additionally, the applicant should
3329 maintain information about the basic habitability for each household in NCS during the period for which the
3330 applicant is requesting a time extension.

3331 Regional Administrators may provide time extensions for up to 6 months from the declaration date. These
3332 time extensions are generally granted in 30-day increments. Any time extensions beyond 6 months must be
3333 approved by the Assistant Administrator for the Recovery Directorate at FEMA Headquarters.

3334 **Data and Reporting During NCS Operations**

3335 Applicants are expected to provide aggregate data reporting the first week of NCS operations and weekly
3336 thereafter until the NCS operations have concluded. This reporting should include the following data
3337 elements:

- 3338 ▪ Number of rooms/NCS shelter units occupied by disaster survivors by county or parish;
- 3339 ▪ Number of disaster survivor households and individuals sheltered in NCS by county or parish; and
- 3340 ▪ The counties/parishes in which NCS is being conducted.

3341 For NCS conducted for more than 30 days, recipients and applicants will be required to collect and use data
3342 regarding the individuals and households sheltered to effectively manage the NCS operations. This will
3343 ensure that only individuals and households with a demonstrated need for continued emergency sheltering
3344 remain in NCS facilities.

3345 The applicant should collect and compile sufficient information from disaster survivors sheltered in NCS
3346 facilities to enable proper management of the project and support disaster survivor transition to longer-term
3347 housing solutions or out of NCS. Applicants should inform individuals and households that information
3348 collected may be shared with FEMA.

3349 FEMA PA staff will not collect the data on behalf of the recipient or applicant. FEMA expects applicants
3350 conducting NCS activities to develop and maintain a reporting system that captures the following data
3351 elements for individuals and households to ensure the eligibility of the work and costs:

- 3352 ▪ FEMA IA Registration ID (if available);
- 3353 ▪ Head of household first and last name and phone number (mobile or other);
- 3354 ▪ Number of individuals in the household;
- 3355 ▪ Damaged dwelling street address, city, state, zip code; and
- 3356 ▪ Pre-incident primary-residence habitability status

3357 Recipients are expected to ensure applicants are prepared to provide the information to substantiate
3358 eligibility based on the above criteria and submit the defined data elements to FEMA on a weekly basis, if
3359 requested.

3360 The recipient is responsible for ensuring aggregate data regarding NCS activities for the declared incident is
3361 reported to the PA Program. This aggregate data reporting should include the following data elements:

- 3362 ▪ Number of rooms/NCS shelter units occupied by disaster survivors by county or parish;
- 3363 ▪ Number of disaster survivor households and individuals sheltered in NCS by county or parish; and
- 3364 ▪ The counties/parishes in which NCS is being conducted.

3365 The recipient must provide the data outlined above to FEMA on a weekly basis within both the initial period
3366 of approved NCS and any subsequent, approved time extensions.

3367 The recipient will also provide an identified point of contact (POC) and contact information for the POC who
3368 will be responsible for providing the reports to FEMA.

3369 The recipient and applicant must comply with the above described NCS data reporting requirements to
3370 determine eligibility and to help prevent fraud, waste, or abuse. FEMA, the applicant, and the recipient
3371 (including its contractors) may need to enter into Information Sharing Access Agreements (ISAAAs) to
3372 coordinate data sharing of personally identifiable information (PII) between the recipient, applicant, and
3373 FEMA. The recipient, applicant, and their contractors must abide by all terms and conditions of any relevant
3374 ISAA or Data Sharing Addendum (DSA) to the FEMA State Agreement.

3375 **HOST-STATE OR HOST-TRIBE EVACUATION AND SHELTERING**

3376 If the impacted state or tribe (Impact-State or Impact-Tribe) has evacuation and congregate sheltering needs
3377 beyond its ability to address within its jurisdictional area, it may request assistance either from another state
3378 or tribal government (Host-State or Host-Tribe) through mutual aid agreements such as EMAC, or from FEMA.

3379 Terminology: Host vs Impact Tribe and State Entities

3380 **Impact-State** or **Impact-Tribe** means the state or tribal government for which the President declared an
3381 Emergency or Major Disaster and requested FEMA assistance because of a need to evacuate and/or
3382 shelter affected individuals outside the State.

3383 **Host-State** or **Host-Tribe** means a state or tribal government that by agreement with FEMA provides
3384 sheltering or evacuation support to evacuees from an Impact-State or Impact-Tribe

3385 If the Impact-State/Tribe requests assistance directly from another state or tribal government, FEMA
3386 reimburses costs based on the mutual aid agreement as described in Chapter 6: *Mutual Aid*. FEMA may also
3387 provide PA funding to the Host-State/Tribe directly, even if the Impact-State/Tribe already requested
3388 assistance directly from that Host-State/Tribe, provided that:

- 3389 ▪ The Impact-State/Tribe requested the assistance;
- 3390 ▪ The Host-State/Tribe agrees to accept evacuees based on need—without restriction;
- 3391 ▪ An authorized official from the Host-State/Tribe transmits a written agreement to FEMA; and
- 3392 ▪ The Governor or Tribal Chief Executive of the Host-State/Tribe signs the FEMA/Host-State or FEMA/Host-
3393 Tribe Agreement pursuant to the terms and conditions in 44 C.F.R. § 206.44, FEMA-State Agreements,
3394 to establish the Host-State/Tribe as the Recipient.²⁶⁵

3395 If the Impact-State/Tribe requests assistance from FEMA, FEMA determines whether potential Host-
3396 States/Tribes have sufficient capability to meet some or all of the sheltering and evacuation needs of the
3397 Impact-State/Tribe. If FEMA determines a Host-State/Tribe has sufficient capability and the Host-State/Tribe

²⁶⁵ 44 C.F.R. § 206.202(f)(1)(i).

3398 meets the three conditions described above, FEMA provides PA funding to the Host-State/Tribe directly.²⁶⁶
 3399 Only congregate sheltering by the Host-State/Tribe is eligible for PA funding.

3400 When FEMA provides PA funding directly to the Host-
 3401 State/Tribe, FEMA reimburses 100 percent of the Host-
 3402 State/Tribe’s eligible costs, including straight-time and
 3403 benefits of the Host-State/Tribe’s permanent employees²⁶⁷
 3404 so that it does not have any out-of-pocket costs. In these
 3405 cases, the Impact-State/Tribe is responsible for the non-
 3406 Federal cost share and must subsequently reimburse FEMA
 3407 for the non-Federal cost share of the eligible costs incurred
 3408 by the Host-State/Tribe. The non-Federal cost share is
 3409 based on the Category B cost-share amount designated in
 3410 the declaration. The Impact-State/Tribe cannot offset its
 3411 non-federal cost share with the Host-State/Tribe’s volunteer
 3412 labor.



Figure 2. Evacuees Boarding a Bus

3413 In addition to the other eligible evacuation and sheltering costs described in this chapter, FEMA also
 3414 reimburses the Host-State/Tribe for the following:

- 3415 ▪ Straight-time and benefits of entities’ employees that provide assistance under a mutual aid agreement
 3416 or a contract with the Host-State/Tribe such as a local government or PNP;
- 3417 ▪ Costs to provide the requested shelter capacity, even if the shelter was underused or notused at all;
- 3418 ▪ Costs related to arrest and incarceration of evacuees who commit unlawful acts in the Host-State/Tribe
 3419 congregate shelter, including costs incurred by on-duty law enforcement officers in order to detain, take
 3420 into custody, or make an arrest (costs of chemical tests, processing, charging, booking, and holding such
 3421 persons are ineligible costs). Costs to transport a detainee back to the shelter is eligible if the individual
 3422 was not charged;
- 3423 ▪ When patients in hospitals in the Impact-State/Tribe are evacuated, transported, and admitted into
 3424 hospitals in the Host-State/Tribe through mission assignment with HHS, and the patients are treated and
 3425 discharged but require follow-on care while awaiting transport, and shelters are not available, the costs
 3426 that the Host-State/Tribe’s hospital incurs for hotel rooms during patients’ follow-on care until the
 3427 patients can be transported back to the Impact-State/Tribe, provided that Medicare, Medicaid, or private
 3428 insurance does not cover these costs;
- 3429 ▪ Bus or shuttle transport to pick up evacuees at the airport, train station, or bus terminal when the
 3430 expected plane, train, or bus is re-routed, canceled, or rescheduled;
- 3431 ▪ Ambulance costs for hospital-to-hospital transfers, provided it is a transfer within the Host-State/Tribe;
- 3432 ▪ When the Impact-State/Tribe determines that it is safe for re-entry, it coordinates with the Host-
 3433 State/Tribe and FEMA to return evacuees, household pets, and service and assistance animals to the
 3434 Impact-State/Tribe by air, rail, or bus. Return transportation costs are eligible along with food, water, and
 3435 security during transport;

²⁶⁶ 44 C.F.R. § 206.208(c)(3).

²⁶⁷ 44 C.F.R. § 206.202(f)(1)(ii).

- 3436 ▪ Return transportation costs for family members of the Impact-State/Tribe evacuee who were admitted to
3437 a hospital after the congregate shelters close;
 - 3438 ▪ When evacuees are discharged from a hospital after all congregate shelters have closed and
3439 transportation cannot be arranged for departure on the same day discharged, FEMA reimburses up to 5
3440 nights of hotel lodging while awaiting return transport; and
 - 3441 ▪ FEMA reimburses a state agency from the Impact-State/Tribe for transportation costs and related
3442 expenses to transport deceased evacuees and accompanying family members to the Impact-State/Tribe.
3443 The cost of the State/Tribe-mandated embalming or cremation of the body prior to return are also
3444 eligible.
- 3445 The Host-State/Tribe must determine whether any ambulance or medical service costs are covered by a
3446 patient's private insurance, Medicare, Medicaid, or a pre-existing private payment agreement as FEMA
3447 deducts this amount from the Host-State/Tribe's eligible cost.

3448 Fees that the Host-State/Tribe waives for the use of State parks by self-evacuees with recreational vehicles
3449 (RVs) are ineligible. Additionally, purchase and distribution of gas cards, bus passes, cash vouchers, debit
3450 cards, food vouchers, or direct payments to evacuees are ineligible.

3451 **CHILDCARE SERVICES**

3452 FEMA reimburses SLTT governments for the cost of providing licensed childcare services to support
3453 sheltered populations. This includes the cost of the labor, facility, supplies, and commodities. Childcare
3454 services can be eligible in support of both congregate and non-congregate sheltering.

3455 Childcare includes services such as:

- 3456 ▪ Day care for children; and
- 3457 ▪ Before- and after-school care.

3458 The applicant may provide these services within a shelter facility or in a separate facility, as appropriate.
3459 FEMA PA and IA staff will coordinate to ensure no duplication with IHP assistance.

3460 **Infectious Disease Incident**

3461 The HHS Centers for Disease Control and Prevention (CDC) has primary authority to enable support and
3462 assistance to SLTT governments in response to an infectious disease incident. In response to a Stafford Act
3463 declaration request, FEMA will formulate a recommendation based on all available information to include
3464 whether emergency protective measures and/or DFA (e.g., personnel, equipment, and supplies) is needed to
3465 meet critical emergency protective requirements that are beyond the capability or capacity of the state, tribe,
3466 or territory. However, the President retains sole authority to approve all declaration requests, regardless of
3467 any FEMA recommendation.

3468 In the event of an emergency or major disaster declaration, FEMA may provide assistance for the evacuation
3469 and movement of persons; movement of supplies; and care, shelter, and other essential needs of affected
3470 human populations directly related to the declared incident. Any assistance provided by FEMA in response to
3471 an infectious disease incident or pandemic is done in coordination with the CDC. When FEMA engages with
3472 and supports work and costs related to a specific infectious disease incident or pandemic, FEMA will issue

3473 disaster-specific guidance (DSG) to identify what emergency protective measures will be considered as
3474 necessary and therefore eligible work for the incident.

3475 **Mosquito Abatement**

3476 Mosquito abatement measures may be eligible when an SLTT government public health official validates in
3477 writing that a mosquito population poses a specific health threat as discussed further in Appendix C:
3478 *Mosquito Abatement*. FEMA consults with the CDC to determine the eligibility of mosquito abatement
3479 activities. FEMA only provides PA funding for the increased cost of mosquito abatement. The eligible costs
3480 are calculated by deducting the average mosquito abatement expenses from the most recent 3 non-disaster
3481 years from the disaster-related costs.

3482 **Safety Inspections**

3483 Post-incident safety inspections to determine whether the facility is safe for entry, occupancy, and lawful use
3484 for public and private facilities are eligible; this includes posting appropriate placards (e.g., “red-tagging” a
3485 building that is unsafe).

3486 The applicant must clearly substantiate that the purpose of the inspection was for safety and not to assess
3487 damage, such as building inspections. For a detailed list of post-incident building inspections and
3488 inspections that may be eligible under Category I, see Chapter 8: *Building Code and Floodplain Management*
3489 *Administration and Enforcement (Category I)*.

3490 **Animal Carcasses**

3491 Removal and disposal of animal carcasses, including interim processing,²⁶⁸ is eligible. If the removal and
3492 disposal is conducted as part of the overall debris removal efforts, the work may be funded as Category A.

3493 FEMA may require certification from the SLTT government health department, HHS, or the U.S. Department
3494 of Agriculture (USDA) that a threat to public health and safety exists.

3495 Smaller animal carcasses (e.g., rodents, skunks, or possums) do not usually pose an immediate threat to
3496 public health or safety. Removal and disposal of these carcasses is ineligible unless the appropriate public
3497 health official determines a threat to public health or safety exists.

3498 FEMA does not provide PA funding when another federal agency has authority to provide assistance for
3499 carcass removal and disposal. The NRCS has authority for the removal of animal carcasses if it determines
3500 that the measure is eligible as debris removal. The USDA’s Farm Service Agency may provide assistance for
3501 farmland debris cleanup. The EPA and USCG have authority to provide technical assistance and to remove
3502 animal carcasses contaminated with oil, hazardous substances, pollutants, or contaminants.²⁶⁹

²⁶⁸ Interim processing may include burning, incinerating, rendering, mounding, composting, or other pre-processing activities.

²⁶⁹ 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.

3503 Demolition of Private Structures

3504 Emergency demolition of structures located on private property (e.g., privately-owned non-commercial or
3505 commercial property) may be eligible when partial or complete collapse is imminent, and that collapse poses
3506 an immediate threat to the general public. FEMA will accept determinations that a structure is destroyed
3507 and/or in immediate danger of collapsing made by the authority having jurisdiction in coordination with a
3508 qualified individual.²⁷⁰

3509 In some instances, restricting public access to an unsafe structure and the surrounding area, such as
3510 securing the area with a fence, is sufficient to alleviate the immediate threat and is more cost-effective than
3511 demolition. In these cases, demolition is ineligible.

3512 If a structure is condemned prior to the incident, emergency protective measures related to that structure
3513 are ineligible.

3514 FEMA reviews the applicant's demolition process for compliance with all applicable EHP laws, regulations,
3515 and EOs.

3516 CONDITIONS OF ELIGIBILITY FOR DEMOLITION

3517 Pre-approval from FEMA is not required for the applicant to begin demolition work; however, for the applicant
3518 to receive PA funding, FEMA must determine that the work is eligible. For demolition to be eligible, the
3519 applicant must:

- 3520 ▪ Notify FEMA that demolition of private structures will be conducted and identify the type of property on
3521 which the demolition work is being conducted (e.g., privately-owned non-commercial or commercial
3522 property) so FEMA can ensure notifications are made to the necessary FEMA components and federal
3523 partners;
- 3524 ▪ Certify that the structures are unsafe and pose an immediate threat to lives or public health and safety
3525 as determined by the authority having jurisdiction, in coordination with a qualified individual;
- 3526 ▪ Provide documentation to confirm its legal authority and responsibility to enter private property and
3527 demolish privately-owned unsafe structures. This includes:
 - 3528 ○ Citation of the law, ordinance, code, or emergency powers for which it is exercising its legal authority
3529 to demolish privately-owned unsafe structures. The authority cited must be applicable to the
3530 structural condition representing the immediate threat and not merely the applicant's uniform level
3531 of services.
 - 3532 ○ Confirmation that a legally authorized official of the applicant has ordered the exercise of public
3533 emergency powers or other appropriate authority to enter onto private property in the declared area
3534 in order to demolish privately-owned unsafe structures and remove the resulting debris.
- 3535 ▪ Indemnify the federal government and its employees, agents, and contractors from any claims arising
3536 from the demolition of privately-owned unsafe structures and removal of the resulting debris;
- 3537 ▪ Obtain all necessary permits and comply with all federal and SLTT applicable laws, regulations, and EOs.

²⁷⁰ Only a licensed engineer or architect or an individual that the jurisdiction authorized to make such decisions.

3538 Before FEMA will provide PA funding, the applicant must provide confirmation that it satisfied all legal
3539 processes and obtained permission requirements from the property owners (rights-of-entry) and agreements
3540 to indemnify and hold harmless the federal government. Additionally, the applicant must provide
3541 documentation to support that it obtained all necessary permits and complied with EHP requirements.

3542 Given the limited eligibility of and the additional requirements related to demolition of private structures,
3543 applicants are encouraged to obtain preliminary approval for the activity from FEMA prior to starting work.

3544 **COMMERCIALLY OWNED STRUCTURES**

3545 Demolition of structures owned by commercial enterprises, including businesses, apartments,
3546 condominiums, and mobile homes in commercial trailer parks are generally ineligible as it is expected that
3547 the commercial enterprises retain insurance that cover the cost of demolition. In very limited, extraordinary
3548 circumstances, the FEMA Regional Administrator may provide an exception. In such cases, the applicant
3549 must meet the requirements outlined above in Chapter 7: *Debris Removal from Private Property*.

3550 **ELIGIBLE DEMOLITION WORK**

3551 Eligible work associated with the demolition includes, but is not limited to:

- 3552 ▪ Capping wells;
- 3553 ▪ Pumping and capping septic tanks;
- 3554 ▪ Filling open below-grade structures, such as basements and swimming pools;
- 3555 ▪ Testing for hazardous materials;
- 3556 ▪ Securing utilities;
- 3557 ▪ Obtaining permits and licenses; and
- 3558 ▪ Performing title searches.

3559 Fees for permits, licenses, and titles issued directly by the applicant are ineligible unless the applicant
3560 demonstrates that the fees are above and beyond its normal administrative costs. Overtime labor directly
3561 related to issuing these permits, licenses, and titles for facilities that are eligible for demolition is eligible.

3562 The following work is also eligible and may be funded as Category A if the removal and disposal is conducted
3563 as part of the overall debris removal operations:

- 3564 ▪ Removing demolition debris, including personal effects; and
- 3565 ▪ Removing hazardous materials, such as asbestos and household hazardous waste (in accordance with
3566 federal and SLTT requirements for handling hazardous materials).

3567 The applicant should work with the property owner to pursue and recover insurance proceeds and credit
3568 FEMA the federal share of any insurance proceeds recovered. In some circumstances, the property owner
3569 may be eligible for IA funding. FEMA PA and IA staff will coordinate closely to ensure FEMA does not fund the
3570 same work under both programs.



Example: Eligibility of Demolition Debris

For demolition, FEMA will accept determinations that a structure is destroyed and/or in immediate danger of collapsing made by the authority having jurisdiction in coordination with a qualified individual. Certain demolition work and costs may be funded as Category A if the removal and disposal is conducted as part of the overall debris removal operations. Demolition is subject to additional requirements and must comply with Chapter 7: *Demolition of Private Structures*.

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; and
- 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 Hazard Mitigation Grant Program (HMGP) (the removal of Substantially Damaged structures and associated facilities acquired through HMGP may be eligible as Category A, Debris Removal).

Removal of the debris resulting from demolition of a structure may not be placed in or on the public right of way, Doing so is considered an ineligible activity.

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, temporary relocation of these services to another facility is eligible.²⁷¹ 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. FEMA evaluates the criticality of the service and safety of the facility to determine the need for temporary relocation.

ELIGIBLE FOR TEMPORARY RELOCATION

The following essential community services provided by an eligible applicant are eligible for temporary relocation:

- Education;
- Election and polling;
- Emergency, including police, fire, and rescue;
- Emergency medical care;
- Homeless and domestic violence shelters;
- Prison;
- Utility; and

²⁷¹ Stafford Act § 403(a)(3)(D), 42 U.S.C. § 5170b.

3604 ▪ Other facilities that provide public health and safety services of a governmental nature.
3605 Services provided in administrative and support facilities essential to the provision of the essential
3606 community service are also eligible for temporary relocation. These include administration buildings, student
3607 housing, hospital and prison laundry and cooking facilities, parking, and storage if items are needed on-site.
3608 Athletic fields and student unions are not considered essential administrative or support services and are
3609 ineligible.

3610 If the applicant provides the service at a leased, private facility prior to the incident, the service is still eligible
3611 to be temporarily relocated.

3612 **INELIGIBLE FOR TEMPORARY RELOCATION**

3613 Facilities that do not provide essential community services are ineligible for temporary relocation. These
3614 include facilities and services such as museums, zoos, community centers, shelter workshops, performing
3615 arts centers, recreation and parking, athletic stadiums, houses of worship, housing and residential services,
3616 custodial care, assisted living facility, senior citizen centers, alcohol and drug rehabilitation, childcare,
3617 libraries, research and warehouse facilities, burial, vocational, academic, athletic, political training, and
3618 student union buildings.

3619 **DETERMINING ELIGIBILITY OF TEMPORARY RELOCATION**

3620 FEMA determines the eligibility of temporarily relocating services to another facility based on the safety of
3621 the damaged facility as follows:

- 3622 ▪ If the facility can be made usable with the performance of emergency protective measures or minor
3623 repairs, a temporary facility may not be eligible.
- 3624 ▪ If the damage is to the extent that it cannot be occupied safely, and restoration cannot be completed
3625 without suspending operations of the facility for an unacceptable period of time, then a temporary facility
3626 may be eligible.
- 3627 ▪ If the facility is not damaged but lacks a critical utility or operational item, such as potable water,
3628 electricity, or road access, and a temporary facility will restore services to the community before the
3629 restoration of the disrupted critical utility or operational item at the current site, then a temporary facility
3630 may be eligible.

3631 The capacity of the temporary facility must not exceed the pre-disaster capacity of the facility that housed
3632 the displaced services unless that is the least costly practical option. The applicant must use the temporary
3633 facility to provide the eligible service to the same extent and manner as was provided prior to the incident.

3634 Relocation to a site that requires ground disturbance or alteration of an existing property requires EHP
3635 review before the applicant implements the action. See Chapter 10: *Environmental and Historic*
3636 *Preservation* for more information on EHP review and considerations.

3637 FEMA does not require the applicant to obtain and maintain insurance for temporary facilities.

3638 If the applicant has a facility that does not meet eligibility requirements for temporary relocation and the
3639 facility's damage is to such an extent that the contents are at risk, PA funding for temporary space to store
3640 the contents as an emergency protective measure may be eligible if the space is:

- 3641 ▪ Limited to an area necessary to store the contents;
 - 3642 ▪ Used solely for storage; and
 - 3643 ▪ Not intended for public access, alternate office space, exhibits, or other purposes.
- 3644 FEMA is not responsible for damage that may occur to contents in temporary storage.

3645 **LEASE, PURCHASE, OR CONSTRUCT**

3646 When deciding whether to rent or purchase space and equipment, the applicant should choose the most
3647 economical option that meets its needs. The applicant must provide FEMA with a cost analysis,²⁷² which
3648 should include at least three options with cost estimates based on the timeline to restore the original facility.
3649 Cost estimates for leasing a facility must account for the entire timeline of the project. FEMA generally
3650 reimburses the least costly option of leasing, purchasing, or constructing a temporary facility. However,
3651 FEMA also considers whether the least costly option is practical when determining eligibility (e.g., if the least
3652 costly option for a temporary school is to lease a building in another county, and the next least costly option
3653 is to install modular buildings on the current campus, FEMA may reimburse the cost of installing the modular
3654 buildings).

3655 If the applicant relocates a service from a facility it owns, the lease costs of a temporary facility are eligible if
3656 leasing is the least costly option. If the applicant was leasing the damaged facility and had to temporarily
3657 relocate to another leased facility, the increase in rent is eligible.

3658 Purchasing or constructing a temporary facility is eligible if FEMA confirms that it is the least costly option.
3659 With exception of modular or manufactured units, the applicant must obtain FEMA approval prior to
3660 purchasing or constructing the temporary facility.

3661 **SAFE ROOMS FOR TEMPORARY SCHOOL FACILITIES**

3662 Funding for accessible safe rooms as part of a temporary school facility may be eligible if the damaged
3663 school contained a safe room or other space that served as a storm shelter and there are no other cost-
3664 effective, reasonable alternatives available to address the safety needs of the students and faculty. If
3665 approved, the safe room capacity is based on student population and the number of faculty who are
3666 expected to use the temporary school facility. The capacity of the safe room cannot exceed the pre-disaster
3667 capacity of the safe room in the damaged school. The safe room should be available no later than the
3668 opening day of classes at the temporary facility.

3669 If the applicant wishes to seek funding for a safe room as part of a temporary school facility, it must obtain
3670 prior approval from FEMA. The request needs to include:

- 3671 ▪ A description of the safe room or safe space that was used as a storm shelter prior to the incident;
- 3672 ▪ The population of students and faculty that need access to the safe room;
- 3673 ▪ Verification that no other cost-effective reasonable alternatives are within proximity that can be used as
3674 a safe space for the school population; and

²⁷² 2 C.F.R. § 200.318(d).

- 3675 ▪ An indication that the applicant will have the safe room installed and operational when school resumes
3676 and students occupy the temporary classroom space.

3677 Safe rooms provided as part of a temporary school facility must comply with the requirements of *Safe*
3678 *Rooms for Tornadoes and Hurricanes*, [Guidance for Community and Residential Safe Rooms \(FEMA P-361\)](#).

3679 The timeframe for providing PA funding for the temporary safe room space coincides with the approved
3680 timeframe for providing PA funding for the temporary school facility.

3681 **TEMPORARY RELOCATION COSTS**

- 3682 ▪ Eligible work or costs associated with the provision of temporary facilities include, but are not limited to:
- 3683 ▪ Rental or purchase equipment and furniture necessary to continue the services in the temporary facility
3684 if the equipment and furniture was destroyed by the event (note, FEMA will provide a one-time purchase
3685 to replace destroyed equipment and furniture);
- 3686 ▪ Reasonable alterations of the temporary facility, if required to make the space functional based on the
3687 pre-disaster use of the damaged facility;
- 3688 ▪ Restoration of the temporary facility to its pre-disaster condition when no longer needed;
- 3689 ▪ Moving expenses to and from the temporary facility;
- 3690 ▪ Minimal life-safety or other building upgrades required by an applicable code or standard and in effect at
3691 the time the temporary facility is purchased or leased (e.g., a "change in use" could trigger the need for
3692 such work); and
- 3693 ▪ Public outreach and messaging costs necessary to inform the public that the service will temporarily be
3694 provided at a different location.

3695 FEMA does not provide PA funding for utility, maintenance, or operating costs in a temporary facility, even if
3696 these costs increase.

3697 **TIME LIMITATIONS**

3698 The regulatory time limitation for temporary facilities (Emergency Work) is 6 months from the declaration
3699 date.²⁷³

3700 Depending on the extent of damage to the facility, the applicant may be unable to restore the facility to its
3701 pre-disaster design and function within 6 months. Normally, the recipient has the authority to extend the
3702 deadline for Emergency Work for up to 6 additional months.²⁷⁴ However, for temporary facilities, only FEMA
3703 has authority to approve any time extensions to the project deadline.

3704 FEMA considers the timeframe necessary to restore the damaged facility when evaluating time extensions
3705 for temporary facilities. If the applicant requests funding for a temporary facility and knows at that time that
3706 the restoration of the original facility will exceed 6 months, FEMA may approve additional time and funding

²⁷³ 44 C.F.R. § 206.204(c)(1).

²⁷⁴ 44 C.F.R. § 206.204(c)(2)(ii).

3707 up to 12 months. If the applicant needs additional time beyond this 12-month deadline, it must submit a
3708 written time extension request that includes the status of the restoration work and timeline for completion in
3709 accordance with 44 C.F.R. § 206.204(2)(d).

3710 FEMA only approves additional time if the applicant begins construction on the damaged facility within 12
3711 months of the declaration date unless circumstances beyond the control of the applicant prevented starting
3712 the construction within this 12-month timeframe.

3713 **Conditions When Temporary Facility Funding is Limited**

- 3714 ■ Improved Project - If FEMA approves an Improved Project for a facility for which it also approved
3715 temporary relocation of the essential community services to a temporary facility, the temporary facility is
3716 only eligible for PA funding for the estimated amount of time necessary to restore the facility to its pre-
3717 disaster design and function. If the actual time to restore the facility with the improvements extends
3718 beyond this timeframe and causes the applicant to continue its use of the temporary facility, FEMA does
3719 not reimburse any cost associated with that continued use. However, FEMA may reimburse costs
3720 associated with relocating its services back into the facility as part of the approved temporary facility
3721 project.
- 3722 ■ Alternate Project - If FEMA approves an Alternate Project for a facility for which it also approved
3723 temporary relocation of the essential community services to a temporary facility, FEMA does not
3724 reimburse any temporary facility costs incurred after the date the applicant requests that Alternate
3725 Project.
- 3726 ■ Alternative Procedures Project - If FEMA approves an Alternative Procedures Project for a facility for
3727 which it also approved temporary relocation of the essential community services to a temporary facility,
3728 continued PA funding for the temporary facility is dependent upon the scope of work (SOW) of the
3729 Alternative Procedures Project.

3730 **DISPOSITION REQUIREMENTS**

3731 If the applicant purchased or constructed a temporary facility, it must return to FEMA the federal share of the
3732 equity in the facility. The applicant must report the equity to FEMA when the approved deadline has expired
3733 or when the facility is no longer needed for the authorized purpose, whichever occurs first.

3734 If FEMA only funded a portion of the cost of the facility, the applicant must return to FEMA the federal share
3735 of FEMA's proportionate equity in the facility. The amount due to FEMA is computed by applying FEMA's
3736 percentage of participation in the cost of the purchase or construction to the fair market value or sale
3737 proceeds, taking into consideration reasonable out-of-pocket costs related to the sale.

3738 The applicant may either retain the facility or sell it. If the applicant disposes of real property (land or
3739 structures) acquired with PA funding and acquires replacement real property using funds from the same PA
3740 project, it may use the net proceeds of the sale to offset the cost of the replacement property.

3741 **Snow-Related Activities**

3742 When the President declares an incident as a Snowstorm or specifically authorizes snow assistance in a
3743 declaration for a Severe Winter Storm, FEMA provides PA funding for impacts related to snow, but the

3744 assistance is limited.²⁷⁵ The request for a major disaster declaration for a Winter Storm or Snowstorm, must
 3745 include a request for snow assistance to be approved in the declaration. See Appendix D: *Snow Assistance*,
 3746 for detailed information. FEMA does not authorize snow assistance for emergency declarations.

3747 **LIMITED TIME PERIOD**

3748 Snow-related activities are eligible for a continuous 48-hour period to address the most critical emergency
 3749 needs.²⁷⁶ Each Applicant designates the beginning of its 48-hour period. However, a State or Territorial
 3750 agency that conducts snow-related activities in multiple locations throughout the State or Territory, such as a
 3751 Department of Transportation, may use different 48-hour periods for different locations. Once FEMA
 3752 approves a project for the Applicant's designated 48-hour period, the Applicant cannot change its selected
 3753 period. If the Applicant awards a contract for periods greater than the 48-hour period, PA funding is limited
 3754 to the costs incurred during the 48-hour period. The FEMA Assistant Administrator of the Recovery
 3755 Directorate may extend the eligible period by 24 hours in counties, parishes, or Tribal government areas
 3756 where the snowfall exceeds the historical record snowfall by at least 50 percent.

3757 **ELIGIBLE WORK**

3758 Eligible work includes:

- 3759 ■ Snow-related activities (for limited time as discussed above):
 - 3760 ○ De-icing;
 - 3761 ○ Salting;
 - 3762 ○ Sanding of roads and other eligible facilities;
 - 3763 ○ Snow dumps; and
 - 3764 ○ Snow removal;
- 3765 ■ Other emergency protective measures (not restricted to the limited time) including, but not limited to,
 3766 search and rescue and sheltering.

3767 Limited snow-related activities necessary to carry out emergency protective measures, such as clearing snow
 3768 in the immediate area of a downed power line, are eligible outside of the limited time period and in counties
 3769 declared but not designated for snow assistance.

3770 For Severe Winter Storm Declarations that do not specifically authorize snow assistance, FEMA only provides
 3771 PA funding for limited snow-related activities that are necessary to perform otherwise eligible work. For
 3772 example, snow removal necessary to repair downed power lines is eligible, while normal snow removal from
 3773 roads (including salting and sanding) is ineligible.

3774 **Emergency Repair or Stabilization**

3775 Emergency repair or stabilization of an eligible facility is eligible as Emergency Work if it eliminates or
 3776 lessens an immediate threat.²⁷⁷ This type of work may be temporary in nature, but it is not required to be
 3777 temporary to be eligible emergency repair or stabilization. Work performed under an exigent circumstance

²⁷⁵ 44 C.F.R. § 206.227.

²⁷⁶ Ibid.

²⁷⁷ 44 C.F.R. § 206.201(b).

3778 that restores the pre-disaster design and function of the facility in accordance with codes and standards is
3779 Permanent Work,²⁷⁸ not Emergency Work, with one exception – work to restore power (see Chapter 8: *Power*
3780 *Restoration*).

3781 Emergency repair of a facility is ineligible if another federal agency has the specific authority to provide
3782 assistance for the facility (even if the repair is temporary),²⁷⁹ such as for:

- 3783 ▪ Federal-Aid highways – Federal Highway Administration (FHWA);
- 3784 ▪ Flood control works – U.S. Army Corps of Engineers (USACE); or
- 3785 ▪ Watershed structures – Natural Resource Conservation Service (NRCS).

3786 For tribal governments specifically, although the Bureau of Indian Affairs (BIA) or FHWA may have authority
3787 to provide temporary emergency repairs of tribal roads, such roads are eligible for PA funding provided the
3788 tribal government does not receive funding from BIA or FHWA for the work.

3789 **OPERATION BLUE ROOF (DFA ONLY)**

3790 Operation Blue Roof provides homeowners with plastic sheeting to cover damaged roofs until arrangements
3791 can be made for permanent repairs. The purpose of Operation Blue Roof is to protect property, reduce
3792 temporary housing costs, and allow residents to remain in their homes while recovering from the incident.
3793 Therefore, only dwellings that can be safely occupied after blue roof installation are eligible. The costs of
3794 these services are ineligible for reimbursement. However, FEMA may provide DFA for these services.²⁸⁰

3795 **SLOPE STABILIZATION**

3796 If a landslide or other slope instability is triggered by the incident and poses an immediate threat to life,
3797 public health and safety, or improved public or private property, emergency protective measures to stabilize
3798 the slope may be eligible.

3799 FEMA only provides PA funding for the least costly option necessary to alleviate the threat. FEMA limits
3800 eligible stabilization measures to the area of the immediate threat, not the entire slope. Work must be
3801 reasonable relative to the size and scope of the area of instability.

3802 If slope instability is triggered by the incident and it is not apparent that the instability creates an unsafe
3803 condition that poses an immediate threat, PA funding for post-disaster inspections and limited geotechnical
3804 investigations is eligible to determine if an immediate threat exists.

3805 Eligible emergency protective measures include, but are not limited to:

- 3806 ▪ Emergency drainage measures;
- 3807 ▪ Emergency ground protection to better stabilize the mass (rip rap, sheeting);

²⁷⁸ 44 C.F.R. § 206.201(j).

²⁷⁹ 44 C.F.R. § 206.226(a).

²⁸⁰ More information is available at: www.usace.army.mil/Media/Fact-Sheets/Fact-Sheet-Article-View/Article/475463/temporary-roofing/.

3808 ▪ Partial excavation at the head of a sliding mass to reduce its driving force;

3809 ▪ Backfilling or buttressing at the toe of a sliding mass using measures such as gabions, rock toes,
3810 cribwalls, binwalls, and soldier pile walls; and

3811 ▪ Installation of barriers to redirect debris flow.

3812 **MOLD REMEDIATION**

3813 The incident may cause facilities to be inundated or exposed to wet and humid weather conditions for
3814 extended periods of time. These conditions may cause growth and spreading of mold in structures and on
3815 contents, causing threats to public health and increasing the repair cost.

3816 The following remediation activities may be eligible as emergency protective measures:

3817 ▪ Wet vacuuming, damp wiping, or vacuuming with High-Efficiency Particulate Air (HEPA) equipment of the
3818 interior space;

3819 ▪ Removal of contaminated gypsum board, plaster (or similar wall finishes), carpet or floor finishes, and
3820 ceilings or permanent light fixtures; and

3821 ▪ Cleaning of contaminated heating and ventilation (including ductwork), plumbing, and air conditioning
3822 systems or other mechanical equipment.

3823 The applicant may use a variety of mold cleanup methods to remediate mold damage based on the extent of
3824 damage and type of damaged material. Appendix E: *Mold Remediation*, provides information for
3825 consideration when developing a SOW for mold remediation. The applicant must follow applicable SLTT
3826 government guidelines for mold sampling and remediation.

3827 Note: Pre-remediation mold sampling is only eligible when the sampling reveals the presence of mold. Post-
3828 remediation sampling is eligible to confirm that remediation is complete.

3829 FEMA only provides PA funding for mold sampling performed by an indoor environmental professional, such
3830 as a Certified Industrial Hygienist, Certified Indoor Environmental Consultant, or Certified Microbial
3831 Consultant. The indoor environmental professional should not be employed by the remediation company to
3832 avoid a conflict of interest. FEMA considers technical evaluations performed by licensed professionals when
3833 determining the eligibility of mold remediation.

3834 For mold remediation to be eligible, mold must not be a result of poor facility maintenance or failure to take
3835 protective measures to prevent the spread of mold in a reasonable time after the incident. If the applicant
3836 can document and justify why it did not take measures to prevent further contamination, or why measures
3837 taken were insufficient to prevent further damage, mold remediation may be eligible.

3838 Examples of extenuating circumstances include:

3839 ▪ Disruption of power;

3840 ▪ Facility is underwater;

3841 ▪ Facility is inaccessible;

3842 ▪ Heating, ventilation, and air conditioning (HVAC) equipment is damaged; and

3843 ▪ Insufficient resources to remediate the entire facility.

3844 FEMA evaluates whether the facility had pre-existing water infiltration conditions when determining whether
3845 mold remediation is eligible. For this evaluation, FEMA considers whether there is evidence of pre-existing
3846 damage or deferred maintenance such as:

- 3847 ▪ Improperly sealed windows or exterior vents;
- 3848 ▪ Standing water against an exterior wall;
- 3849 ▪ Poorly maintained drains or gutters with rust or vegetative growth; and
- 3850 ▪
- 3851 ▪ Leaking and or water-stained ceiling tiles.

3852 **EMERGENCY BERMS ON BEACHES**

3853 If a natural or engineered beach has eroded to a point where flooding from a 5-year storm²⁸¹ could damage
3854 improved property, cost-effective emergency protective measures on the beach that protect the improved
3855 property against damage from that 5-year storm are eligible.

3856 Eligible measures typically include the construction of emergency sand berms to protect against additional
3857 damage from a 5-year storm. Emergency sand berms are not intended to permanently restore the beach;
3858 they are intended only to provide protection from immediate threats. The applicant may construct emergency
3859 berms with sand recovered from the beach or with imported sand. If the applicant constructs the berms with
3860 imported sand, FEMA will only provide PA funding if the sand is from a source that meets applicable
3861 environmental regulations and one of the following circumstances exists:

- 3862 ▪ Recoverable quantities are insufficient; or
- 3863 ▪ SLTT government regulations prohibit placement of the recovered sand.

3864 To show that flooding from a 5-year storm could damage improved property, the applicant must demonstrate
3865 that the stillwater level plus wave runup elevation as determined by computer modeling for a 5-year storm
3866 exceeds the post-incident elevation of the primary dune.

3867 The 5-year Stillwater Level (SWL) is equal to the average water surface elevation of the rise in seawater level
3868 (surge) resulting from a 5-year storm, plus wave setup and the astronomical tide. The 5-year Total Water
3869 Level (TWL) is equal to the elevation of the wave runup predicted for a 5-year storm plus the SWL. Locations
3870 where the elevation of the post-incident profile is less than the TWL are eligible for placement of an
3871 emergency berm to protect improved property. See Figure 12 below.

²⁸¹ 44 C.F.R. § 206.221(c). 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).

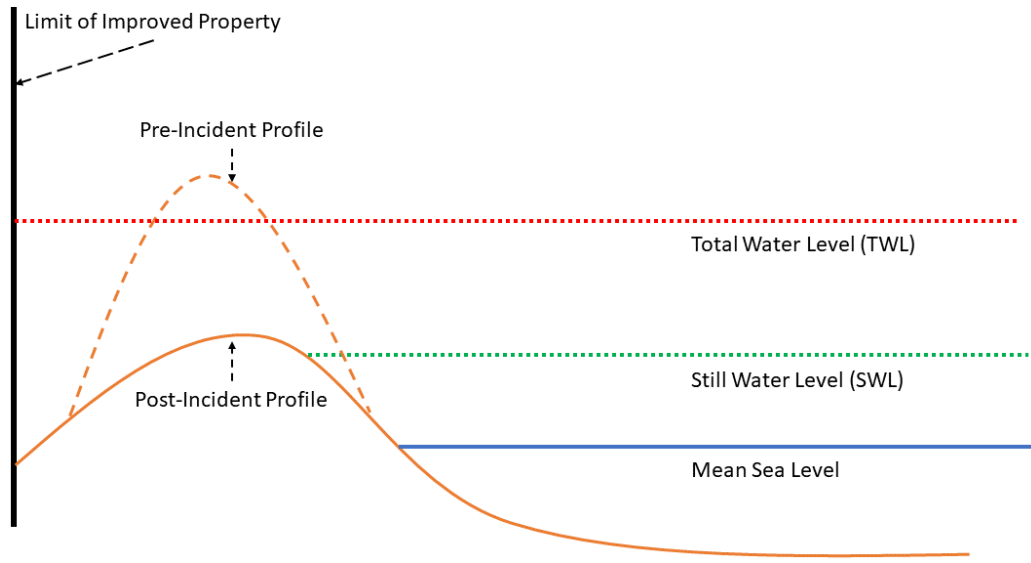


Figure 12. Determining Eligibility of Emergency Berms on Beaches

3872

3873 Based on the average expected erosion for a 5-year storm, FEMA only provides PA funding for emergency
 3874 berms constructed with up to 6 cubic yards per linear foot of sand above the 5-year stillwater level or the
 3875 berm’s pre-incident profile, whichever is less. In some cases, placing sand below the 5-year stillwater level
 3876 may be necessary to provide a base for berm. The placement of that sand is also eligible as part of the
 3877 emergency protective measure.

3878 Placement of dune grass on an emergency dune or berm is only eligible if it is required by permit and is an
 3879 established, enforced, uniform practice that applies to the construction of all emergency berms within the
 3880 applicant’s jurisdiction, regardless of the circumstance. If dune grass is required, the applicant must include
 3881 the grass placement cost in the dune or berm construction cost when evaluating cost-effectiveness. Any
 3882 maintenance of the dune grass after the initial installation is ineligible.

3883 For berms located on natural beaches, or improved beaches which do not qualify as Category G-eligible
 3884 facilities, the Category B work will not result in a dune eligible under Category G in future disasters. If the
 3885 applicant chooses to construct engineered dunes, the eligible work and costs are limited to that necessary
 3886 for addressing the immediate threat.

3887 Applying eligible sand volumes to an aggregate total as the result of several disasters, to be used in a work-
 3888 to-be-completed project, is not allowable for emergency berm sand since Category B, by definition,
 3889 addresses an immediate threat.

3890 **Damage Caused During Performance of Emergency Work**

3891 The applicant may damage improved property, supplies, or equipment during the performance of eligible
 3892 emergency response activities or debris removal operations.

3893 The repair of damage to public property, supplies, or equipment is eligible as part of the respective
3894 Emergency Work (Category A or B) Project²⁸² if the damage was:

- 3895 ▪ Due to severe conditions resulting from the incident;
- 3896 ▪ Unavoidable; and
- 3897 ▪ Not due to improper or excessive use.

3898 Replacement of damaged trees, shrubs, or other ground cover is eligible as part of the repair work when
3899 damaged during eligible emergency work activities. Crops and agriculture are not eligible for replacement.

3900 For equipment damage, FEMA requires maintenance records to demonstrate that the equipment was
3901 regularly maintained and in good operational order prior to the incident, and details regarding when, where,
3902 and how the damage occurred.

3903 Repair of damage to private property is only eligible if the above criteria is met and either:

- 3904 ▪ The property is an easement, and the applicant is legally responsible for repairing the damage it causes
3905 to the easement; or
- 3906 ▪ The applicant leased the property either for sheltering or for a temporary debris staging site, and the
3907 lease agreement establishes that the applicant is legally responsible for the repair.

3908 Damage caused by snow-related activities conducted outside of the authorized period, as described in
3909 Chapter 7: *Snow-Related Activities*, is ineligible.

²⁸² Although the repairs may be Permanent Work, FEMA includes it on the Emergency Work project as damage resulting from the emergency work.

Chapter 8: Permanent Work Eligibility (Categories C-G)

Section 406 of the Stafford Act²⁸³ authorizes FEMA to provide assistance for both Permanent Work (Categories C-G) and building code and floodplain management administration and enforcement activities (Category I). Permanent work is subject to insurance obtain and maintain requirements to protect facilities against future loss. This requirement applies to insurable facilities or property (buildings, contents, equipment, and vehicles). Work must also meet all applicable environmental and historic preservation laws, executive orders, and regulations.

Facility Restoration (Categories C-G)

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.²⁸⁴ Categories C-G work is subject to the eligibility of the facility as described in [Chapter 4:II. Facility Eligibility](#) and shown in Figure 13. *Permanent Work Eligibility*.

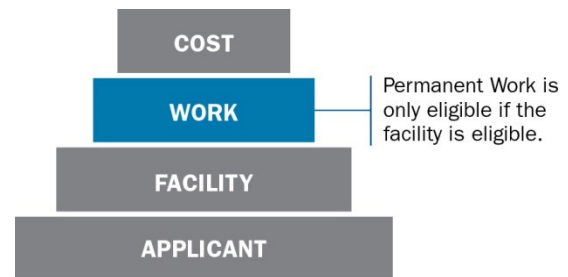


Figure 13. Permanent Work Eligibility

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.²⁸⁵

Pre-disaster function is the function for which the facility was originally designed or subsequently modified. For example, if the 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.²⁸⁶

²⁸³ Stafford Act § 406(a), 42 U.S.C. § 5172

²⁸⁴ 44 C.F.R. § 206.201(j). Although this section of 44 C.F.R. does not reference function as part of the definition of Permanent Work, 44 C.F.R. § 206.203(d)(2) states that if the Applicant does not restore the function, it is an Alternate Project. See Chapter 8: *Capped Projects* for discussion on Alternate Projects.

²⁸⁵ 44 C.F.R. § 206.201(k).

²⁸⁶ 44 C.F.R. § 206.226(k)(1).



Examples: Restoring to Pre-Disaster Design and Pre-Disaster Function

- 3937 ▪ Restoring to Pre-Disaster Design: If a school designed for a capacity of 100 students is damaged
3938 beyond repair, the eligible funding for the replacement facility is limited to that necessary for 100
3939 students, even if more than 100 students were attending the school prior to the incident.
- 3940 ▪ Restoring to Pre-Disaster Function: If the applicant is using an office building as a storage facility at
3941 the time of an incident, and it is less costly to restore the facility as a storage facility, only those
3942 repairs necessary to restore it as a storage facility are eligible.

Alternative Procedures

3943 While PA funding is usually based on pre-disaster size, capacity, and function, FEMA developed procedures
3944 under Section 428 of the Stafford Act to maximize the ability of applicants to drive their own recovery. This
3945 approach standardizes a single process for the development and consideration of fixed cost estimates as
3946 the first option for all large, Permanent Work Projects. This ensures applicants have awareness of the
3947 opportunities and benefits provided by the Alternative Procedures, including flexibility in meeting post-
3948 disaster recovery needs, as opposed to being limited to rebuilding back to what existed prior to the disaster;
3949 ability to share funds across all Alternative Procedures Permanent Work Projects; and ability to retain and
3950 use excess funds to reduce risk and improve future disaster operations (subject to timely closeout).
3951 Applicants will be able to agree to a fixed cost estimate or choose to pursue funding under standard, actual
3952 cost procedures. Section 428 Alternative Procedures is discussed in more detail in Chapter 8: *Restoration*
3953 *Opportunities (Capped Projects), Section 428 Alternative Procedures.*
3954

Codes and Standards

3955 PA applicants are required to restore facilities in conformity with both local codes, as well as the applicable
3956 federal codes, specifications, and standards found in the latest edition of [FEMA Policy 104-009-11,](#)
3957 [Consensus-Based Codes, Specifications, and Standards \(CBCSS\) Policy](#), whichever is most strict. FEMA
3958 requires applicants follow the CBCSS Policy in instances where the applicant does not have adopted codes
3959 relating to the type of repair being undertaken or has codes with hazard-resistant provisions that are less
3960 stringent than those found in the CBCSS Policy. There are situations in which applicants are not required to
3961 follow the CBCSS Policy. This includes situations in which the jurisdiction has adopted codes that comply
3962 with 44 CFR Part 206.226(d) and have hazard-resistant elements that are the same or greater than those
3963 listed in the CBCSS Policy or if the implementation of the CBCSS Policy would be technically infeasible,
3964 create an extraordinary burden on the applicant, or would otherwise be inappropriate for the facility (such as
3965 adversely affecting a facility that is listed on the National Register of Historic Places, SLTT codes or
3966 standards apply if they are more stringent or relate to facilities not covered by CBCSS, such as dams or
3967 levees.
3968

Consensus-Based Codes, Specifications, and Standards

3969 The CBCSS Policy is authorized by [Section 1235\(b\) of the Disaster Recovery Reform Act of 2018 \(DRRA\),](#)
3970 which amended section 406(e) of the Stafford Act and requires FEMA to fund repair, restore, reconstruct, or
3971 replace eligible facilities in conformity with the latest published editions of relevant consensus-based codes,
3972

3973 specifications, and standards that incorporate the latest hazard-resistant design provisions. These represent
 3974 a minimum design criteria in cases where an applicant either has no code for the type of repair or
 3975 restoration required or the code's hazard resistance provisions are insufficient when compared with the
 3976 codes identified in the CBCSS Policy.

3977 For certain facility types, FEMA requires that applicants incorporate specific codes, specifications, and
 3978 standards in accordance with FEMA's CBCSS Policy. This includes buildings, electric power, roads, bridges,
 3979 potable water supply, and wastewater facilities.

3980 The CBCSS Policy is intended to improve the resilience of PA-funded projects by establishing guidelines and
 3981 standards to use as a benchmark when locally-adopted codes and standards are non-existent, adopted but
 3982 have hazard-resistant provisions that are weaker than those described in the CBCSS Policy, or otherwise
 3983 ineligible for the type of restoration required. It is possible that subrecipients may have adopted a similar
 3984 code to the one being required by the CBCSS Policy. In these cases, PA will fund the use of these locally-
 3985 adopted codes if the subrecipients can demonstrate their eligibility under FEMA's regulatory requirements
 3986 discussed in more detail below in Local Codes and Standards Eligibility Criteria.

3987 Applicants are encouraged to visit [FEMA's Building Science Resource Library](#) for additional information on
 3988 the contents and potential applicability of select building codes that FEMA supports. These include
 3989 appropriate building codes, standards, specifications, and national or local floodplain management
 3990 ordinance compliance. If a community has adopted and enforces local building codes, floodplain
 3991 management requirements must be met for all construction located in a Special Flood Hazard Area.
 3992 Compliance with the minimum codes and standards referenced in the CBCSS Policy do not always guarantee
 3993 compliance with national or local floodplain management ordinances.

3994 **Local Codes and Standards Eligibility Criteria**

3995 This section applies to codes and standards that are required in the local jurisdiction (as opposed to those
 3996 required by the federal government as a condition of the grant). FEMA provides PA funding to restore
 3997 facilities based on pre-disaster design and function in conformity with current applicable codes,
 3998 specifications, and standards.²⁸⁷

3999 Standards,²⁸⁸ mean codes, specifications, or standards required for the construction of facilities. The
 4000 applicant must provide documentation to support the eligibility of code or standard upgrades.

4001 These SLTT codes are only eligible for FEMA assistance when they meet the criteria below:

- 4002 ▪ Apply to the type of restoration required;
- 4003 ▪ Are appropriate to the pre-disaster use of the facility;

²⁸⁷ Stafford Act § 406(e), 42 U.S.C. § 5172(e); 44 C.F.R. § 206.226(d); 44 CFR 206.221(i)

²⁸⁸ 44 C.F.R. 206.221(i)

- 4004
- Must be reasonable, in writing, formally adopted by the SLTT government, and implemented by the SLTT government on or before the disaster declaration date OR is a federal requirement applicable to the type of restoration;
- 4005
- 4006
- 4007
- Apply uniformly; and
- 4008
- Any code or standard in effect at the time of a disaster must have been enforced during the time it was in effect.
- 4009

4010 APPLIES TO THE TYPE OF RESTORATION REQUIRED

4011 Codes and standards must apply to the type of restoration required. Codes and standards for new
4012 construction are often different than codes and standards for repair work. If FEMA determines a facility is
4013 eligible for replacement, compliance with current codes and standards for new construction is eligible. If
4014 FEMA determines a facility is ineligible for replacement, only code-required upgrades applicable to repairs
4015 are eligible.

4016 Depending on the type of restoration work, a code or standard may require:

- 4017
- Upgrades to all structural components; or
- 4018
- In addition to upgrades to all structural components, upgrading the non-structural components into conformance with current codes or standards for new construction.
- 4019



4020 Example: Code-Required Upgrade Triggering Further Upgrades

4021 One example of a code-required upgrade triggering further upgrades to all structural components may
4022 be wind-retrofits, which require addressing the roof, load path, and openings protection in order to
4023 completely address wind loads on a structure.

4024 If an upgrade to an entire structural or non-structural system within a building is triggered by an eligible code
4025 or standard, the upgrade is only eligible if there is a direct relationship between the upgrade and the eligible
4026 work.²⁸⁹ Eligibility is limited to code compliance for discrete elements within the system that was damaged.

4027 FEMA evaluates the eligibility of the work to upgrade or change the configuration of damaged systems for
4028 reasonableness with respect to the type and extent of damage.



4029 Examples: Codes or Standards that Do Not Apply to the Restoration Required

4030 The applicant requests PA funding for the repair of a damaged building and the construction of a
4031 parking garage. The applicant states that while there was no parking garage prior to the incident,
4032 zoning codes and other local ordinances now require one. Because parking improvements have no
4033 relationship to the disaster-related repairs, they do not apply to the type of restoration required and
4034 are ineligible.

²⁸⁹ 44 C.F.R. § 206.223(a)(1).

4035 Similarly, an applicant may request PA for a project involving repairs to discrete damaged portions of a
 4036 road shoulders. The applicant states that a code or standard that applies to new construction or the
 4037 rehabilitation of an entire road requires the construction of paved shoulders, drainage swales, and
 4038 berms. Because the improvements such as drainage swales and berms have no relationship to
 4039 discrete damaged portions of a road shoulders, the construction of these improvements is ineligible.

4040 **APPROPRIATE TO PRE-DISASTER USE**

4041 Codes and standards must be appropriate to the pre-disaster use of the facility. FEMA determines the
 4042 eligibility of code-required upgrades based on the facility's pre-disaster design or actual use at the time of
 4043 the disaster. The least costly of the following is eligible:

- 4044 ▪ Pre-disaster use of the facility, if serving the same function for which it was originally designed; or
- 4045 ▪ Alternate use of the facility, if serving an alternate function at the time of the incident.



4046 **Example: Code or Standard Not Appropriate to the Pre-Disaster Facility Use**

4047 The original design of a facility was a warehouse; however, the applicant was using the facility as a
 4048 classroom before the incident. Restoring the facility as a classroom in conformance with classroom
 4049 codes or standards would not be eligible if it would cost more than restoring the facility as a
 4050 warehouse in accordance with code or standards applicable to a warehouse. It would be eligible if it
 4051 would cost the same or less than restoring the facility as a warehouse in accordance with code or
 4052 standards applicable to a warehouse.

4053 **REASONABLE**

4054 Codes and standards must be reasonable. FEMA evaluates the eligibility of the work to upgrade or change
 4055 the configuration of damaged systems for reasonableness with respect to the type and extent of damage.
 4056 When determining reasonableness, FEMA:

- 4057 ▪ Examines the general reasonableness of the code or standard and the trigger for application of the code
 4058 or standard;
- 4059 ▪ Determines whether the upgrade and trigger relate to the type of restoration required by the damage
 4060 and whether the upgrade and trigger are justified based on the extent of damage;
- 4061 ▪ Considers whether the upgrade and the trigger are technically defensible from an engineering
 4062 perspective; and
- 4063 ▪ Determines whether the cost of the upgrade is reasonable.

4064 FEMA may determine a very large upgrade based on a very low trigger to be unreasonable.

4065 **WRITTEN, FORMALLY ADOPTED, AND IMPLEMENTED**

4066 Codes and standards must be in writing, formally adopted by the SLTT government, and implemented by the
 4067 applicant on or before the declaration date, OR be a legal federal requirement, such as an Americans with
 4068 Disabilities Act (ADA) or seismic safety requirement. The authority that has jurisdiction must:

- 4069 ▪ Approve the code or standard;
- 4070 ▪ Make it a matter of public record; and

- 4071
- Formally incorporate it into the building code or other applicable ordinance.

4072 The code or standard must apply to the facility in question. For example, if a state has jurisdiction over a
 4073 particular type of work and formally adopts a code or standard related to that work, a tribal or local
 4074 government in that state does not necessarily have had to formally adopt the code or standard for it to apply
 4075 to its facility. The tribal or local government meets the above requirement if it shows that it has a history of
 4076 enforcing the code or standard since it was adopted.

4077 FEMA does not recognize codes or standards adopted by a private nonprofit (PNP) specifically for its facilities
 4078 when determining whether compliance with codes or standards is eligible. FEMA also does not accept codes
 4079 or standards adopted by agencies or divisions of SLTT governments that are not authorized to set codes or
 4080 standards within the broad governmental jurisdiction of the SLTT government.



4081 Example: A Standard that is Not in Writing, Formally Adopted, and Implemented

4082 FEMA approves funding to replace a culvert that was washed out by a flood. The state natural
 4083 resources department denies the applicant's permit application for replacing the culvert and
 4084 recommends the applicant to construct a bridge instead. The decision of the permitting officials is
 4085 discretionary and not based on a written and formally adopted code or standard; therefore, the bridge
 4086 construction is ineligible.

4087 APPLIES UNIFORMLY

4088 Codes and standards must apply uniformly to all similar types of facilities, whether private or public, eligible
 4089 or ineligible, in the applicant's jurisdiction or (if applicable) in a particular hazard zone within its jurisdiction.

4090 For FEMA to find that a code or standard is uniformly applied, the code or standard must meet all of the
 4091 following conditions. The code or standard must:

- 4092
- Provide for uniform accountability in the event of noncompliance;
 - 4093 ▪ Not be subject to discretionary enforcement by building or permitting officials; and
 - 4094 ▪ Not allow for selective application.

4095 A code or standard must meet three tests to demonstrate that it is not selectively applied:

- 4096
- The upgrade is generally triggered regardless of the cause of damage and is also triggered for
 4097 renovations or improvements.
 - 4098 ▪ The code or standard is applied regardless of the source of funding for the work.
 - 4099 ▪ The code or standard is not applied selectively based on the availability of funds.



Example: A Standard that Does Not Apply Uniformly

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4103
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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 ineligible as it does not apply uniformly to all similar types of facilities within the applicant's jurisdiction.

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ENFORCED

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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.

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If FEMA determines a jurisdiction has had no reasonable opportunity to enforce the code or 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.



Example: A Code or Standard that was Not Enforced While in Effect

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A city's building code requires foundation upgrades when installing new or repairing old portable buildings. Prior to the incident, the city allowed for the installation of several new portable buildings without the code-required foundation upgrades. After the incident, the applicant requests funding to upgrade the foundation of several publicly owned portable buildings that have been damaged by the incident, citing the city's building code. The upgrades to the foundation of the damaged portable buildings are ineligible because the applicant had not been enforcing the standard.

4121

Ineligible Upgrades

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Upgrades recommended by design standards, guidelines, policies, industry practices, or other non-mandatory provisions are ineligible if the provisions do not meet all of the criteria noted in the CBCSS Policy or Chapter 8: *Local Codes and Standards Eligibility Criteria*. Ineligible upgrades include those based on non-mandatory or non-prescriptive standards.

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Upgrades that are deemed ineligible but enhance a facility's ability to resist damage in a future incident may be eligible as PA mitigation (see Chapter 8: *Hazard Mitigation*) or through FEMA's Hazard Mitigation Grant Program (HMGP).²⁹⁰

²⁹⁰ Hazard Mitigation Grant Program (HMGP) | FEMA.gov

4129 Permit Requirements

4130 If a federal or SLTT government permitting agency requires additional work based on a code or standard that
4131 does not meet the eligibility criteria in Chapter 8: *Codes and Standards*, the cost of the additional work is
4132 only eligible if the work:

- 4133 ▪ Does not change the pre-disaster size, capacity, or function of the facility;
- 4134 ▪ Applies to the type of repair or restoration required;
- 4135 ▪ Is reasonable based on the type and extent of damage; and
- 4136 ▪ Is an established, enforced, uniform practice that applies to all similar types of facilities within the
4137 applicant's jurisdiction, regardless of the circumstance.

4138 Hazard Mitigation

4139 Additional funding to protect an applicant's facilities may be eligible as PA hazard mitigation.²⁹¹ Hazard
4140 mitigation²⁹² measures are those taken to help avoid repetitive damage from multiple disasters, reduce the
4141 potential for future damage to an eligible facility, and provide long-term solutions to the increasing frequency
4142 and severity of natural hazards. PA hazard mitigation allows work beyond code and standard requirements.
4143 In cases where the proposed resilience measure(s) exceed a code or standard requirement, eligibility is
4144 evaluated based on the work that is above and beyond the code requirements. Upgrades required to meet
4145 applicable codes and standards are not mitigation measures because these measures are part of eligible
4146 restoration work.

4147 Approved PA hazard mitigation measures are considered part of the total eligible cost of repair, restoration,
4148 or reconstruction of a facility. In cases where the eligible repair costs are fully covered by insurance, the PA
4149 hazard mitigation may still be eligible if the "total eligible project cost," including mitigation, meets or
4150 exceeds the minimum project threshold.

4151 Eligibility Criteria

4152 FEMA evaluates proposed PA mitigation measures for eligibility, cost-effectiveness, technical feasibility and
4153 effectiveness, and compliance with EHP laws, regulations, and EOs. In addition, FEMA ensures that the
4154 mitigation does not negatively impact the facility's operation or surrounding areas or create susceptibility to
4155 damage from another hazard.

4156 To be eligible for PA hazard mitigation funding, measures must directly reduce potential for future damage to
4157 the damaged portion(s) of the facility, meet cost-effectiveness criteria, and comply with all other federal,
4158 state, local, tribal, and territorial legal requirements.

4159 Details about each of these requirements are discussed in the following paragraphs.

²⁹¹ FEMA also refers to PA hazard mitigation as 406 mitigation. Section 406 of the Stafford Act provides funding for cost-effective measures that increase the resilience of disaster damaged facilities against future incidents, including impacts of climate change.

²⁹² 44 C.F.R. § 206.2(a)(14).

4160 Future Damage Reduction

4161 To ensure protection of the disaster-damaged facility, FEMA evaluates proposed measures to determine
4162 feasibility and the capability of the mitigation measure to protect against disaster damages, regardless of
4163 hazard type.

4164 Generally, eligible PA mitigation measures are those that the applicant performs on damaged portion(s) of
4165 facilities. PA mitigation measures protecting damaged portion(s) of facilities may also protect other portions
4166 of the facility. If the applicant proposes mitigation measures that are distinct and separate from the
4167 damaged portion(s) of the facility, FEMA evaluates the proposal and determines eligibility based on how the
4168 measures protect the damaged portion(s) of the facility.



4169 **Examples: Potentially eligible Hazard Mitigation measures that are not**
4170 **applied directly to the damaged portion of the facility**

4171 Examples of eligible PA hazard mitigation measures that may be separate and distinct from the
4172 damaged portion(s) of a facility include, but are not limited to:

- 4173 ▪ Constructing floodwalls or vegetated swales around damaged facilities;
- 4174 ▪ Installing new drainage facilities (including culverts or permeable pavements) along a damaged
4175 road;
- 4176 ▪ Applying fire-resistant materials and/or creating defensible space around a facility damaged by
4177 wildfire; and
- 4178 ▪ Dry floodproofing both damaged and undamaged buildings that contain components of a system
4179 that are functionally interdependent (i.e., when the entire system is jeopardized if any one
4180 component of the system fails).

4181 If FEMA determines that mitigation measures are ineligible as PA hazard mitigation (e.g., the mitigation
4182 measures do not protect the damaged portions of the facility against future risk), the applicant may request
4183 to use hazard mitigation funding under FEMA's Hazard Mitigation Grant Program (HMGP). This provides
4184 protection to undamaged portions, while utilizing PA mitigation funds to provide protection to damaged
4185 portions.²⁹³ The applicant may use both PA hazard mitigation and HMGP mitigation funds to implement
4186 mitigation measures on the same facility, but not for the same work.

4187 If FEMA approves PA funding for mitigation and the applicant does not complete the PA mitigation work,
4188 FEMA will deobligate the PA mitigation funds.

²⁹³ Additional information on FEMA's other hazard mitigation assistance grants can be found at Hazard Mitigation Assistance Grants | FEMA.gov.

4189 **COST EFFECTIVENESS**

4190 To be eligible for PA hazard mitigation funding, mitigation measures must be cost effective.²⁹⁴ FEMA
4191 considers PA hazard mitigation measures to be cost-effective if ANY of the following criteria are met:

- 4192 ▪ The cost for the mitigation measure does not exceed 15 percent of the total eligible repair cost (prior to
4193 any insurance reductions) of the facility or facilities for which the mitigation measure applies; OR
- 4194 ▪ The mitigation measure is specifically listed in Appendix J: *Cost-Effective Public Assistance Hazard*
4195 *Mitigation Measures* AND the cost of the mitigation measure does not exceed 100 percent of the eligible
4196 repair cost (prior to any insurance reductions) of the facility or facilities for which the mitigation measure
4197 applies; OR
- 4198 ▪ The recipient or applicant demonstrates through an acceptable benefit-cost analysis (BCA) methodology
4199 that the measure is cost-effective, including FEMA’s list of mitigation measures pre-determined to be
4200 cost-effective using the FEMA BCA Toolkit.²⁹⁵ Hazard mitigation measures that do not meet the first two
4201 requirements above may prove to be cost-effective based on a BCA. If the hazard mitigation measure is
4202 not cost-effective based on the first two criteria, FEMA and the applicant will work together to develop a
4203 BCA to determine whether it is cost-effective.

4204 A BCA is based on a comparison of the total estimated cost for the PA hazard mitigation measure to the total
4205 value of expected benefits to society. FEMA’s BCA methodology considers common project benefits, which
4206 include reductions in the magnitude or frequency of:

- 4207 ▪ Damage to the facility and its contents;
- 4208 ▪ The need for emergency protective measures;
- 4209 ▪ The need for temporary facilities;
- 4210 ▪ Loss of function;
- 4211 ▪ Casualties (typically included only for earthquake, tornado, and wildfire mitigation); and
- 4212 ▪ Previous impacts regardless of whether the impacts occurred in federal disaster declarations (only if
4213 documented).

4214 FEMA’s BCA methodology also considers additional social, environmental, and other benefits that do not
4215 directly impact hazard mitigation.

4216 **COMPLIANCE WITH LEGAL REQUIREMENTS**

4217 To be eligible for PA hazard mitigation funding, mitigation measures must comply with applicable laws,
4218 regulations, and EOs as well as any federal or SLTT requirements. These may be different from an
4219 applicant’s usual construction project compliance items.

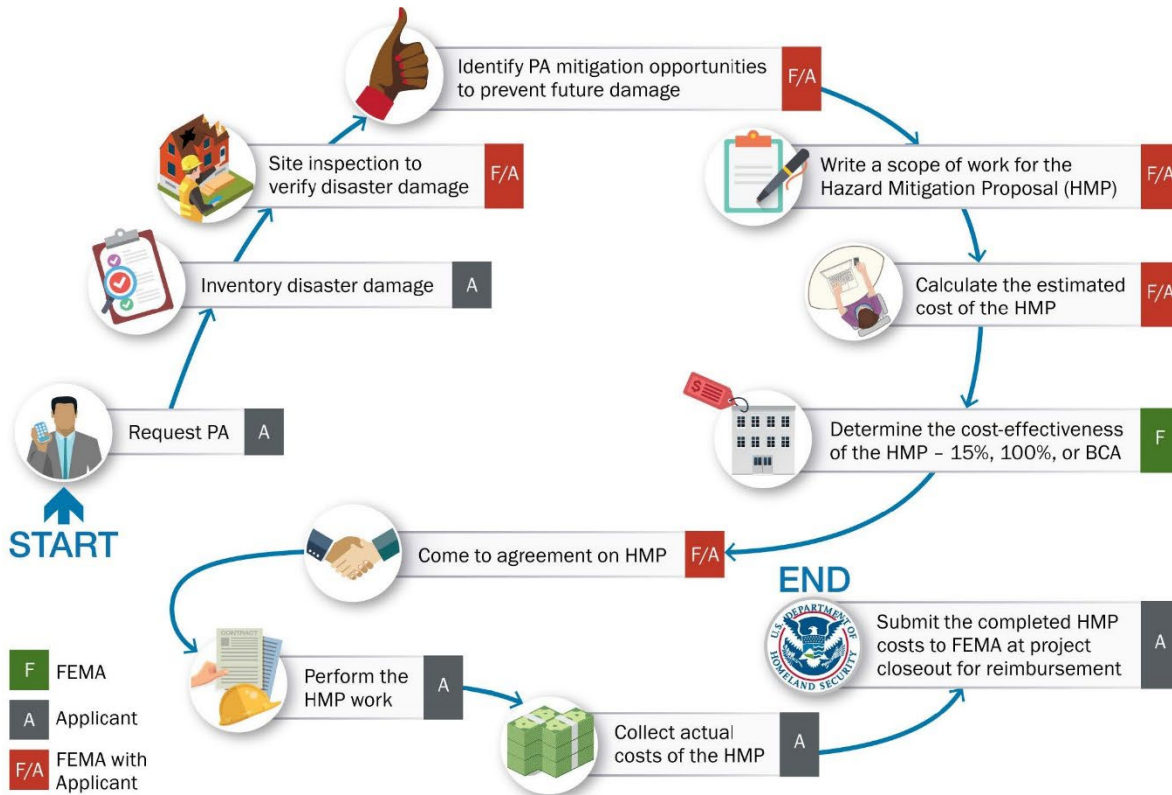
²⁹⁴ 44 C.F.R. § 206.226(e).

²⁹⁵ This FEMA BCA Toolkit is available here: <https://www.fema.gov/grants/guidance-tools/benefit-cost-analysis/streamlined-bca#pre-calculated-benefits> and subject to all other programmatic eligibility requirements.

4220 Compliance with codes and standards may be required. FEMA evaluates the project’s scope of work under
 4221 all codes and standards requirements to determine eligibility (See Chapter 8: *Codes and Standards*).
 4222 Resilience measures that are more stringent than codes and standards are implemented as PA hazard
 4223 mitigation.

4224 **PROPOSING PA HAZARD MITIGATION**

4225 An applicant, recipient, or FEMA may recommend that PA hazard mitigation measures be included in a
 4226 project.



4227

4228

Figure 3. PA Hazard Mitigation Process Flowchart

4229 PA hazard mitigation may only be included in facility restoration Permanent Work (Categories C-G) projects,
 4230 not Emergency Work projects. Applicants may request assistance from FEMA hazard mitigation staff to
 4231 identify and develop proposed hazard mitigation measures for their facility. These hazard mitigation
 4232 measures are included in PA Permanent Work projects via Hazard Mitigation Proposals (HMPs).

4233 If approved, PA hazard mitigation is part of the project and funded at the same federal cost share.

4234 **REDUCE ADVERSE IMPACTS**

4235 To avoid transfer of risk and reduce risk overall, the applicant should design hazard mitigation measures to
 4236 reduce susceptibility to another hazard, adverse impacts to facility operation, and adverse impacts to
 4237 surrounding areas.

4238 POST-REPAIR HAZARD MITIGATION

4239 PA hazard mitigation opportunities usually present themselves during facility repair. However, in cases where
 4240 the applicant needs to repair a facility in an expedited manner, the applicant may miss an opportunity to
 4241 implement hazard mitigation measures during repair. If the applicant implements hazard mitigation
 4242 measures on a completed PA-funded repair, the mitigation work may still be eligible for PA funding; however,
 4243 FEMA will not provide PA funding for any duplicative work triggered by the subsequent hazard mitigation.

4244 COMPLETED HAZARD MITIGATION ELIGIBILITY

4245 In some instances, the applicant may implement hazard mitigation measures after the incident occurs but
 4246 before the incident is declared or before FEMA has the opportunity to evaluate the measure for eligibility. In
 4247 these cases, the hazard mitigation work may still be eligible for PA funding if it is cost effective and FEMA
 4248 confirms compliance with applicable EHP laws, regulations, and executive orders (EOs).

4249 NATURE-BASED SOLUTIONS

4250 Nature-based solutions are sustainable planning, design, environmental management and engineering
 4251 practices that weave natural features or processes into the built environment to build resilient communities
 4252 and mitigate the impact of climate change. FEMA uses the term “nature-based solutions” to refer to an
 4253 umbrella of strategies, including bioengineering and/or natural infrastructure. Other agencies may also use
 4254 the terms “natural or nature-based features” or “engineering with nature,” which all fall under the term
 4255 “nature-based solutions”.²⁹⁶ Nature-based solutions and natural assets may provide a cost-effective
 4256 reduction to the impacts of natural hazards and may also provide additional environmental, social, and
 4257 economic benefits.

4258 Appendix J lists numerous nature-based hazard mitigation features, including live fascines, vegetated
 4259 geogrids, live crib walls, brush mattresses, bioswales, and rain gardens. Other nature-based solutions are
 4260 eligible as PA hazard mitigation, provided they meet all eligibility requirements. More examples are available
 4261 in FEMA’s *Building Community Resilience with Nature-Based Solutions* guide.²⁹⁷

4262 Historic Preservation Compliance

4263 FEDERAL REQUIREMENT

4264 If the facility is listed in, or meets the criteria to be listed in, the National Register of Historic Places, and an
 4265 applicable code or standard requires repair in a certain manner, costs associated with work to comply with
 4266 that code or standard are eligible, even if repair costs exceed replacement costs. This is an exception to the
 4267 regulatory requirement that when a facility is eligible for replacement, FEMA limits eligible costs to the less
 4268 expensive of repairs or replacement (see Chapter 8: *Repair vs. Replacement*).²⁹⁸

²⁹⁶ [Hazard Mitigation Assistance Program and Policy Guide, Part 12](#)

²⁹⁷ [Building Community Resilience with Nature-Based Solutions: A Guide for Local Officials \(fema.gov\)](#)

²⁹⁸ 44 C.F.R. § 206.226(f)(2) and (3).

4269 STATE, TRIBAL OR TERRITORIAL GOVERNMENT REQUIREMENT

4270 If a state, territorial, or tribal historic building code or standard requires specific work be performed, FEMA
 4271 evaluates the code or standard using the eligibility criteria provided in Chapter 8, Codes and Standards.
 4272 Most state historic building codes and standards encourage code officials to allow *less* intrusive alternatives
 4273 to requirements of the prevailing codes or standards, but do not require any particular work be performed.
 4274 As a result, the codes and standards usually fail to meet the eligibility criteria.

4275 Public Assistance Mitigation Funds for Capped Projects

4276 IMPROVED PROJECT

4277 Improved Projects that involve facility replacement or relocation can include mitigation funding. If the capped
 4278 amount for an Improved Project includes PA mitigation funds and the Applicant either does not complete the
 4279 PA mitigation work, or replaces or relocates the original facility, FEMA deobligates the PA mitigation funds.

4280 ALTERNATE PROJECT

4281 If the SOW to restore a facility includes PA mitigation, and the Applicant elects to proceed with an Alternate
 4282 Project, FEMA does not include costs related to the PA mitigation in the capped amount for the Alternate
 4283 Project.

4284 ALTERNATIVE PROCEDURES PROJECT

4285 When the Applicant is restoring the function, but changing the pre-disaster capacity of a facility, the
 4286 proposed PA mitigation SOW is developed based on the actual SOW to be performed; however, the cost-
 4287 effectiveness is evaluated based on the fixed-cost amount accepted for the pre-disaster restoration SOW. If
 4288 the capacity is increased, the proposed hazard mitigation SOW and cost is limited to the SOW and cost
 4289 necessary to mitigate to the pre-disaster capacity of the damaged facility. If the Applicant does not complete
 4290 the approved PA mitigation, FEMA deobligates the portion of the fixed-cost amount related to hazard
 4291 mitigation.

4292 Construction Method

4293 FEMA considers changes to the pre-disaster design or construction method (including materials) and can
 4294 approve if the changes are required due to access or accessibility issues, site conditions, or to tie into
 4295 existing infrastructure. The changes must not impact the capacity or function of the facility. The applicant
 4296 must show that the changes are reasonable based on the type and extent of restoration and are consistent
 4297 with the applicant's general construction practices and legal requirements. Codes and standards may also
 4298 require changes to pre-disaster design or construction methods.

4299 Pre-existing Site Conditions

4300 In cases where unrepaired, pre-existing conditions may compromise repair of disaster damage, FEMA
 4301 provides PA funding to repair disaster damage contingent upon the applicant repairing the pre-existing
 4302 damage. The costs associated with repairing the pre-existing damage are the responsibility of the applicant.
 4303 For example, FEMA may determine that repairs to a damaged bridge deck are eligible. However, the deck
 4304 cannot be repaired unless the applicant replaces the rotting timbers that support the deck.

Accessibility for Individuals with Disabilities

The ADA and other disability rights laws such as the Architectural Barriers Act (ABA) require that all newly constructed facilities be accessible to and usable by individuals with disabilities and that repairs that might affect the ability of individuals with disabilities to use the facility comply with accessibility standards.²⁹⁹ In some circumstances, FEMA provides PA funding for accessibility compliance requirements. FEMA funded activities and programs must be physically accessible to people with disabilities and access and functional needs.^{300 301}

FEMA provides PA funding regardless of whether the facility was in compliance prior to the incident, provided the applicant was not cited for a violation. If the applicant was notified of being in violation of a requirement prior to the incident and did not bring the facility into compliance, then accessibility requirements related to the violation are ineligible.

Some exceptions apply when ADA requirements “threaten or destroy the historic significance of qualified historic buildings and facilities.”³⁰² FEMA addresses these provisions during its consultation with the SHPO or THPO and incorporates them into the agreement regarding the repairs to the building.

FEMA may also provide PA funding for additional SLTT government ADA requirements that meet the eligibility criteria for codes or standards, as described in Chapter 8: *Codes and Standards, Eligibility Criteria*.

Path of Travel

If the primary function area sustained disaster damage and the path of travel to the primary function area has not sustained damage (or has sustained less damage), FEMA may provide PA funding for reasonable changes required by an eligible code or standard. The purpose is to increase accessibility to undamaged elements that serve the primary function area. These changes may include accessible entrances, accessible path of travel to the primary function area (by ingress and egress), accessible parking, equal access to services (interior routes), an accessible approach to public areas such as restrooms, water fountains, and emergency/evacuation routes.

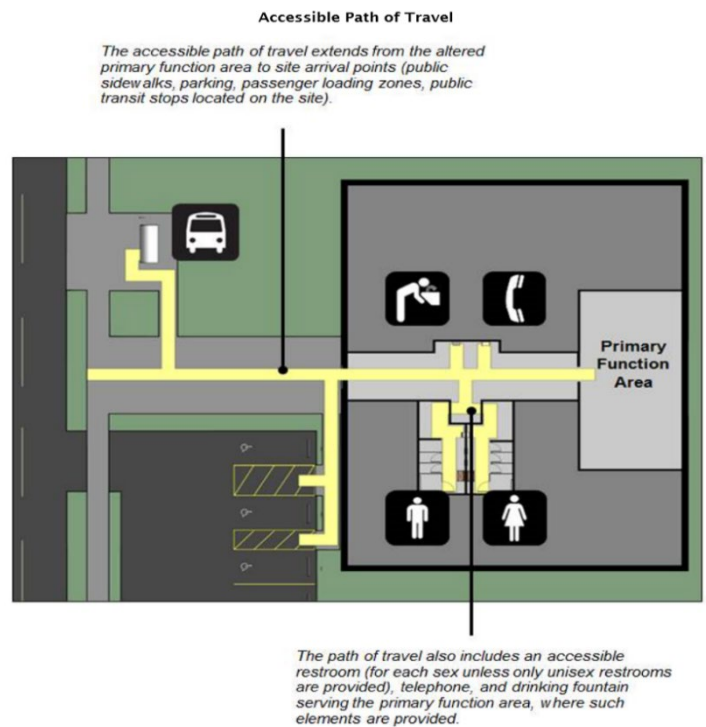


Figure 15. Path of Travel

²⁹⁹ 42 U.S.C. § 12147(a); 28 C.F.R. § 35.151(b).

³⁰⁰ Stafford Act, § 308, 42 U.S.C. § 5151.

³⁰¹ Section 504 of the Rehabilitation Act of 1973.

³⁰² 28 C.F.R. § 36.405.

4338 FEMA may provide PA funding when the code-required alterations have a reasonable and technically
 4339 supportable relationship to the damaged elements of the facility. The applicant is not limited in the amount
 4340 that they may fund for ADA improvements for their path of travel access, but the PA funding cannot exceed
 4341 20 percent of its total funding to restore the primary function area.³⁰³ If the costs for ADA upgrades exceed
 4342 the 20 percent threshold, the applicant must prioritize elements that will provide the greatest access
 4343 according to the order outlined in 28 C.F.R.³⁰⁴

4344 If the applicant engages in repairs that are ineligible for PA funding, the cost of requirements triggered by
 4345 those repairs are ineligible.



4346 Terminology: Primary function area

4347 A **primary function area** is the area where a major activity occurs for which the facility is intended.
 4348 Examples include the dining area of a cafeteria, meeting rooms of a conference center, and public
 4349 offices providing governmental services to the public.

4350 **Path of travel** includes a continuous, unobstructed way of pedestrian passage to the primary function
 4351 area. This includes interior and exterior approaches such as hallways, doorways, sidewalks, streets,
 4352 parking areas, and public transit drop points. See Figure 15. Path of Travel.

4353 **Service facilities** to the primary function area include restrooms, telephones, and drinking fountains.

4354 See www.access-board.gov/guidelines-and-standards/buildings-and-sites/about-the-ada-standards/guide-to-the-ada-standards.
 4355

4356 Flexible Restoration (Capped Projects)

4357 FEMA provides three options that provide flexibility for the applicant to use PA funding for its Permanent
 4358 Work differently than restoring the pre-disaster design and function of the facility. For these options, FEMA
 4359 caps the amount of PA funding based on the estimated amount that would be required to restore the
 4360 damaged facility to its pre-disaster design and function. This includes cost associated with compliance with
 4361 current eligible codes and standards as defined in Chapter 8:IV. Codes and Standards. FEMA does not
 4362 incorporate funds from temporary facilities into fixed cost projects.

4363 The three capped project options are: Improved Projects, Alternate Projects, and Alternative Procedures
 4364 Projects.

³⁰³ 28 C.F.R. § 35.151(b)(4)(iii).

³⁰⁴ For calculation purposes, the total costs of the primary function area repair include the repair costs of the roof, heating, ventilation, and air conditioning (HVAC) systems, mechanical rooms, janitorial closets, locker rooms, and private offices directly associated with the repair of the primary function area.



Terminology: Improved Projects and Alternate Projects

Improved Projects - If an applicant desires to make improvements, but still restore the pre-disaster function of a damaged facility, the recipient's approval must be obtained.

Alternate Projects - When an applicant determines that the public welfare would not be best served by restoring a damaged public facility or the function of that facility, the recipient may request an alternate project.

Improved Project

The applicant may wish to make improvements to a damaged facility that are not required by eligible codes or standards, such as adding a new gymnasium to a school building or relocating a building outside a flood-prone area. An Improved Project is a project that restores the pre-disaster function of a facility and incorporates improvements or changes (including capacity changes) to the pre-disaster design. These changes may also include a facility replacement and/or hazard mitigation.

FEMA limits PA funding for an Improved Project to the lesser of the following:

- The federal share of the approved estimate 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.

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.

USE OF IMPROVED PROJECT FUNDS

The applicant may use Improved Project funds to improve the damaged facility. The facility must have the same function that existed immediately prior to the disaster. 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; and
- Relocating a facility when FEMA is not requiring the relocation.

The funding available for PA hazard mitigation for an Improved Project is limited to the amount that would have been available if the facility had been restored to its pre-disaster design. If the capped amount for an Improved Project includes PA mitigation funds and the applicant does not complete the PA mitigation work, FEMA deobligates the PA mitigation funds.

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, with few exceptions. HUD's Community Development Block Grant – Disaster

4398 Recovery program (CDBG-DR)³⁰⁵ is an example of a federal program that, in certain circumstances, may be
4399 used to meet the non-federal share of FEMA’s PA program.

4400 The applicant must obtain approval from the recipient before proceeding with an Improved Project.³⁰⁶ If the
4401 Improved Project significantly changes the pre-disaster configuration of the facility, the recipient must
4402 forward the request to FEMA to ensure that the Improved Project complies with appropriate EHP laws,
4403 regulations, and EOs.

4404 **Alternate Project**

4405 The applicant may determine that the public welfare is not best served by restoring the pre-disaster function
4406 of the damaged facility. When this occurs, the applicant must obtain FEMA’s approval to apply PA funding
4407 toward a different facility (or facilities). FEMA refers to this as an Alternate Project. The Alternate Project
4408 must be a Permanent Work project that benefits the general public, serving the same general area that was
4409 being served by the original facility.

4410 FEMA limits federal funding for an Alternate Project to the lesser of:

- 4411 ▪ The federal share of the approved estimate to restore the damaged facility to its pre-disaster design and
4412 function; or
- 4413 ▪ The federal share of the actual cost of completing the Alternate Project.³⁰⁷

4414 **USE OF ALTERNATE PROJECT FUNDS**

4415 The applicant may use Alternate Project funds toward a project that does not restore the pre-disaster
4416 function of the damaged facility. This includes the ability to:

- 4417 ▪ Repair, expand, mitigate, or construct a facility that would otherwise be an eligible facility under the PA
4418 Program;³⁰⁸
- 4419 ▪ Demolish facilities;
- 4420 ▪ Purchase capital equipment that has a useful life of at least 1 year and is equal to, or greater than,
4421 \$5,000 per unit;
- 4422 ▪ Fund project shortfalls due to mandatory flood insurance reductions taken from PA Program funding for
4423 repairs to buildings in SFHAs (see Chapter 8: *National Flood Insurance Program*);
- 4424 ▪ Supplement funds for an Improved Project; and
- 4425 ▪ Conduct cost-effective hazard mitigation measures, regardless of whether the facility was damaged by
4426 the incident and whether the measures reduce the risk of future damage from the same type of incident

³⁰⁵ [Implementation Guidance for Use of CDBG-DR Funds as Non-Federal Cost Share for FEMA's Public Assistance Program.](#)

³⁰⁶ 44 C.F.R. § 206.203(d)(1).

³⁰⁷ 44 C.F.R. § 206.203(d)(2)(ii) and (iii).

³⁰⁸ 44 C.F.R. § 206.203(d)(2)(iv).

4427 or of the same type of damage caused by the incident. Alternate Project funds may be use used for
4428 hazard mitigation provided that:

- 4429 ○ Funding does not duplicate other FEMA mitigation funding; and
- 4430 ○ Measures reduce the risk of future damage to a facility that is otherwise eligible either under the PA
4431 or Hazard Mitigation Assistance (HMA) programs. If the measures are the same type as those eligible
4432 for HMA funding, they must meet a need for governmental services and functions or eligible PNP
4433 services and functions in the area affected by the incident.

4434 If the Alternate Project involves construction, the applicant must obtain FEMA approval prior to the start of
4435 construction as FEMA must ensure that it complies with appropriate EHP laws, regulations, and EOs.³⁰⁹ If the
4436 SOW to restore a facility includes PA mitigation, and the applicant elects to proceed with an Alternate
4437 Project, FEMA does not include costs related to the PA mitigation in the capped amount for the Alternate
4438 Project.

4439 The applicant may not use Alternate Project funds to:

- 4440 ▪ Meet budget shortfalls;
- 4441 ▪ Create a new community plan;
- 4442 ▪ Landscape;
- 4443 ▪ Pay for operating expenses;³¹⁰
- 4444 ▪ Purchase supplies, furniture, or equipment costing less than \$5,000 per unit;
- 4445 ▪ Pay the non-federal share of any PA project;³¹¹
- 4446 ▪ Fund buyouts for mitigation, such as acquisition of flood-prone property to create open space;
- 4447 ▪ Supplement funds on projects that utilize other federal agency grants; or
- 4448 ▪ Fund a project located in a FEMA-designated floodway.



4449 Terminology: Alternative Procedures Projects – Section 428

4450 **Alternative Procedures Projects** – Section 428 of the Stafford Act authorizes FEMA to award PA
4451 funding based on fixed estimates. Under Section 428, the applicant may use funds across all
4452 Permanent Work Alternative Procedures Projects with no requirement to rebuild communities back to
4453 what existed prior to the disaster.

4454 **Alternative Procedures Project (Section 428)**

4455 This type of project offers the maximum amount of flexibility with how the applicant may use PA funding,
4456 including use of excess funds which are not eligible under the Improved or Alternate Project options. Under

³⁰⁹ 44 C.F.R. § 206.203(d)(2)(v).

³¹⁰ Ibid.

³¹¹ Ibid.

4457 Stafford Act Section 428 (for large projects only), the applicant may use funds across all Permanent Work
 4458 Alternative Procedures Projects with no requirement to rebuild communities back to what existed prior to the
 4459 disaster. Alternative Procedures Projects are subject to acceptance of a fixed-cost offer within the deadlines
 4460 described in Chapter 9: *Fixed Cost Offer Deadlines*.

4461 FEMA caps PA funding for an Alternative Procedures Project based on the aggregate federal share of the
 4462 approved estimated cost:

- 4463 ▪ To restore the damaged facilities to pre-disaster design and function in accordance with eligible codes
 4464 and standards; and
- 4465 ▪ For cost-effective PA mitigation measures associated with the actual restoration SOW that the applicant
 4466 will perform.

4467 The intent of the PA Alternative Procedures for Permanent Work is to provide the applicant with a flexible
 4468 avenue to choose its own recovery outcomes. PA staff work together with the applicant to develop projects
 4469 and identify the amount of PA funds that are available for applicants to use toward a strategic recovery
 4470 outcome. FEMA will complete a fixed-cost estimate for all large Permanent Work Projects and transmit this
 4471 estimate as a fixed-cost offer to the applicant for consideration. When the applicant accepts a fixed cost
 4472 offer for a Large Project in accordance with Chapter 9: *Fixed Cost Offer Deadlines*, FEMA considers it an
 4473 Alternative Procedures Project.

4474 The recipient and applicant may also work together with various federal agencies and other stakeholders to
 4475 identify other available sources of funding that may also be applied to achieve the desired outcome.

4476 For Alternative Procedures Projects for Permanent Work, the applicant is:

- 4477 ▪ Not required to rebuild back to what existed prior to the disaster;
- 4478 ▪ Allowed to share funds across all Alternative Procedures Permanent Work Projects;
- 4479 ▪ Not required to track costs to specific work items or facilities as funds can be shared across all
 4480 Alternative Procedures Permanent Work Projects;
- 4481 ▪ Allowed to retain and use excess funds to reduce risk and improve future disaster operations (subject to
 4482 timely closeout).

4483 **Table 18. Standard vs. Alternative Procedures**

Standard Procedures	Alternative Procedures
Actual cost project. No retention of excess funds associated with the approved	Fixed-cost project with use of excess funds.
Can only use funds toward the specific work identified in each specific project.	May use funds across all Alternative Procedures Projects.

Standard Procedures	Alternative Procedures
After FEMA approves a SOW, FEMA requires approval for any change to the SOW.	After FEMA approves a SOW, FEMA only requires approval for changes that involve buildings or structures that are 45 years or older, ground disturbing activities, or work in or near water.
Must track costs associated with all changes to the SOW.	Do not need to track costs associated with changes to the SOW.
Must track costs specific to each work item within each individual project.	Do not need to track costs to specific work items. Only need to track the total costs associated with the Alternative Procedures Projects.
Must track all work to each individual project.	Do not need to track work to specific projects. Only need to substantiate that the work is related to the approved SOW covered in the Alternative Procedures Projects.

4484 **USE OF ALTERNATIVE PROCEDURES PROJECT FUNDS**

4485 FEMA will complete a fixed-cost estimate for all large Permanent Work Projects. FEMA will transmit this
 4486 estimate as a fixed-cost offer to the Applicant for consideration. When the Applicant accepts a fixed cost
 4487 offer for a Large Project in accordance with Chapter 9: *Fixed Cost Offer Deadlines*, FEMA considers it an
 4488 Alternative Procedures Project and the applicant is:

- 4489 • Not required to rebuild back to what existed prior to the disaster;
- 4490 • Allowed to share funds across all Alternative Procedures Permanent Work Projects;
- 4491 • Not required to track costs to specific work items or facilities as funds can be shared across all
 4492 Alternative Procedures Permanent Work Projects;
- 4493 • Allowed to retain and use excess funds to reduce risk and improve future disaster operations
 4494 (subject to timely closeout); and
- 4495 • Eligible for cost-effective hazard mitigation on replacement projects.

4496 The applicant may use Alternative Procedures Permanent Work Project funds, including any excess funds
 4497 across all of its Alternative Procedures Permanent Work Projects.

4498 The applicant may request to use the funds for designated activities in the *Eligible with Fixed-Cost Funds*
 4499 column in Table 19 below. Once FEMA approves, and the applicant completes, the SOW associated with
 4500 these activities, the applicant may use any excess funds for the expanded list of eligible activities listed
 4501 under the *Use of Excess Funds* column.

4502 Any excess funds remaining after the approved SOW is complete may be used for cost- effective activities
 4503 that reduce the risk of future damage, hardship, or suffering from a major disaster, and activities that
 4504 improve future PA operations or planning. The applicant must submit a proposed SOW for use of any excess
 4505 funds, along with a project timeline to the recipient within 90 days of completing its last Alternative
 4506 Procedures Project. The recipient must forward the request to FEMA within 180 days of date the last
 4507 Alternative Procedures Project was completed. The applicant can submit a request for a time extension to
 4508 this deadline to FEMA for consideration.

4509 FEMA evaluates the proposed use of excess funds for reasonableness to ensure prudent use of funds. FEMA
 4510 also evaluates the submitted project timeline and approves an appropriate deadline for work completion,
 4511 not to exceed the overall disaster period of performance.

4512 The following table lists examples of eligible and ineligible types of work and costs when using fixed-cost
 4513 funds and excess funds. All work must otherwise be eligible for PA.

4514 **Table 1. Eligible Work and Costs for Use of Fixed-Cost and Excess Funds**

Type of Work or Cost	Eligible with Fixed-Cost funds?	Eligible with Excess funds?
Restoration of disaster-damaged facilities and equipment	Yes	Yes
Alternate Projects (e.g., purchasing equipment, constructing new facilities, improvements to undamaged facilities such as shelters and emergency operation centers) in declared areas	Yes	Yes
Cost-effective hazard mitigation measures for undamaged facilities	No	Yes
Covering future insurance premiums, including meeting obtain and maintain (O&M) insurance requirements, on damaged or undamaged facilities	No	Yes
Work on facilities that are ineligible due to a failure to meet previous O&M requirements	No	No
Conducting or participating in training for response or recovery activities, including federal grants management or procurement courses	No	Yes
Planning for future disaster response and recovery operations, such as developing or updating plans (e.g., Debris Management Plans, Hazard Mitigation Plans, Pre-disaster Recovery Plans, Emergency Management Plans), integrating these plans into other plans, preparedness activities, exercises, and outreach	No	Yes
Salaries for PA or emergency management staff (e.g., staff performing PA award or subaward administration, monitoring, and closeout activities for other PA disaster awards, and staff developing or updating disaster plans)	No	Yes
Paying down debts	No	No
Covering operating expenses	No	No
Covering budget shortfalls	No	No

Type of Work or Cost	Eligible with Fixed-Cost funds?	Eligible with Excess funds?
Covering the non-federal cost share of FEMA projects or other federal awards	No	No

4515 Obtain-and-maintain requirements for insurance apply to work funded with excess funds, as appropriate.

4516 If the applicant does not accept the fixed-cost offer, the project will be processed utilizing standard
 4517 procedures and final funding will be based on actual costs. The flexible use of funds and the use of excess
 4518 funds are not available under standard procedures. Information on Alternative Procedures Project close-out
 4519 requirements is found in *Chapter 12: Alternative Procedures Permanent Work Projects*.

4520  **Example: Alternative Procedures Project**

4521 A county road crosses a watercourse and its adjacent floodplain using five culverts. During the
 4522 incident, floodwaters overtop the road and damage the crossings, either by washing out the culverts or
 4523 by damaging the roadway and headwalls. FEMA approves a project to repair or replace each culvert
 4524 crossing, including hazard mitigation measures to increase the size of the culverts. The applicant
 4525 requests that the aggregate funding for the five crossings be used to replace the current configuration
 4526 with one bridge.

4527 **Disposition of Original Facility**

4528 For Alternate and Alternative Procedures Projects, if the applicant does not repair, replace, or sell the
 4529 damaged facility for which the capped project funding was based, and that facility is unsafe if not repaired,
 4530 the applicant must render the facility safe and secure (e.g., by restricting access, locking doors and windows,
 4531 constructing a fence around the property) or demolish it.

4532 If the applicant receives funds for salvaged components of the facility, FEMA adjusts the capped project
 4533 funding by the value or anticipated fair market value of salvaged materials less the estimated costs
 4534 necessary to demolish the facility, grade the site, or make the facility safe and secure.

4535 For any work proposed by the applicant using PA funds at the original site, such as making the damaged
 4536 facility safe and secure or demolishing it, FEMA must conduct EHP compliance review. When no PA funding
 4537 is used for work proposed at the original site, FEMA still may require the applicant, as a condition of the
 4538 grant funding for Alternate and Alternative Procedure Projects, to coordinate with agencies including the
 4539 State Historic Preservation Officer or Tribal Historic Preservation Officer (SHPO/THPO), U.S. Fish and Wildlife
 4540 Service, National Marine Fisheries Service, or the U.S. Army Corps of Engineers, to determine if the proposed
 4541 work will adversely affect any historic properties and/or natural resources, and consider any measures
 4542 recommended by the agencies to avoid, minimize, treat, or otherwise address adverse effects identified.
 4543 The applicant must provide FEMA with documentation of its coordination with the agencies, and any agreed
 4544 upon measures to address adverse effects. The applicant is responsible for all costs associated with said
 4545 coordination and agreed upon measures. See *Chapter 10: Environmental and Historic Preservation*
 4546 *Requirements* for more information on EHP compliance review, and considerations. See Appendix A:

4547 *Environmental and Historic Preservation Compliance* for a description of common EHP laws, regulations,
4548 and Executive Orders (EOs).

4549 If the applicant opts to keep a damaged facility for a later use, the facility may be eligible for PA funding in
4550 future incidents, provided the applicant repaired the facility in accordance with current codes and standards,
4551 and completed any mitigation measures, or other requirements that FEMA included in the original SOW prior
4552 to the incident. The applicant must also maintain and obtain insurance according to the requirement placed
4553 on the original project.

4554 **Eligibility Considerations by Facility**

4555 This section details the types of facilities captured within each category (C-G) of Permanent Work along with
4556 specific eligibility criteria related to one or more of the facilities within each category. See Appendix F: *Work*
4557 *Eligibility Considerations by Type of Facility* for a summary of eligibility by facility type.

4558 **Roads and Bridges (Category C)**

4559 **COMPONENTS**

4560 Roads may be paved, gravel, or dirt. Road components include, but may not be limited to:

- 4561 ▪ Surfaces;
- 4562 ▪ Bases;
- 4563 ▪ Shoulders;
- 4564 ▪ Ditches;
- 4565 ▪ Drainage structures, such as culverts, vegetated swales and water bars,
- 4566 ▪ Low water crossings, inlets, outfalls, swales; and
- 4567 ▪ Associated facilities, such as lighting, sidewalks, guardrails, and signs.

4568 Bridge components include, but may not be limited to:

- 4569 ▪ Decking;
- 4570 ▪ Guardrails;
- 4571 ▪ Girders;
- 4572 ▪ Pavement;
- 4573 ▪ Abutments;
- 4574 ▪ Piers;
- 4575 ▪ Slope protection;
- 4576 ▪ Approaches; and
- 4577 ▪ Associated facilities, such as lighting, sidewalks, and signs.

4578 ROAD AND BRIDGE ELIGIBILITY FOR PERMANENT WORK

4579 Public roads are any publicly-owned, non-federal aid street, road, or highway for which an eligible applicant
4580 has legal responsibility. Some private non-profit applicants may have eligible roads and sidewalks, such as
4581 on a school campus.

4582 For tribal governments, although the Bureau of Indian Affairs (BIA) or FHWA may have authority to provide
4583 permanent restoration of public tribal roads, such roads are eligible for PA funding provided the tribal
4584 government does not receive funding from BIA or FHWA for the same work. Additionally, roads owned by a
4585 tribal government may be eligible even if they are not open to the general public.

4586 FHWA has authority to restore public roads under the Emergency Relief (ER) Program.³¹² Roads that are
4587 eligible for ER assistance are identified as Federal-aid routes, which include highways on the federal-aid
4588 highway system and all other public roads not classified as local roads or rural minor collectors. The ER
4589 Program is activated separately from Presidential declarations under the Stafford Act and may not be
4590 activated for all incidents. Federal-aid routes and ancillary facilities are ineligible for Permanent Work even if
4591 the ER Program is not activated or if the program is activated but FHWA does not provide funding for the
4592 work. FHWA also has authority to assist with restoration of transportation facilities under the Emergency
4593 Relief for Federally Owned Roads Program (ERFO).³¹³

4594 Private roads are those that are not owned or operated by or otherwise the legal responsibility of a Federal
4595 or SLTT entity (including orphan roads, roads in gated communities, homeowners' association roads, etc.).
4596 These roads are ineligible.

4597 TYPES OF DAMAGE

4598 The repair of damage to eligible roads and bridges caused by the disaster event is eligible under the PA
4599 Program.

4600 The incident may cause minor damage to roads that results in damage similar to that which may occur over
4601 time from other causes, such as the age of the road, traffic flow, and frequent rain. Costs related to
4602 maintenance of roads are ineligible. Work to repair potholes or fatigue cracking is usually ineligible as this
4603 type of damage is rarely caused directly by one incident. Different types of damage to roads caused by
4604 flooding are discussed below.

4605 Cause of Damage

4606 FEMA does not provide PA funding for repair of damage caused by deterioration, deferred maintenance, the
4607 applicant's failure to take measures to protect a facility from further damage, or negligence. When
4608 evaluating eligibility of reported road damage, in addition to evaluating how the incident caused the damage,
4609 FEMA reviews maintenance records or documentation establishing that the applicant has a routine
4610 maintenance program. In the absence of maintenance records, FEMA reviews material purchase invoices
4611 and activity logs and inspects other sections of the applicant's road system to confirm the performance of

³¹² www.fhwa.dot.gov/programadmin/erelief.cfm.

³¹³ fh.fhwa.dot.gov/programs/erfo/.

4612 regular maintenance activities. More information on maintenance documentation requirements is available
4613 in Chapter 4.

4614 **Scour Erosion**

4615 Work to repair scour or erosion damage to a channel or stream bank is only eligible if the repair is necessary
4616 to restore the structural integrity of an eligible road, culvert, drainage structure, or bridge. Earthwork in a
4617 channel or stream embankment that is not related to restoring the structural integrity of an eligible facility is
4618 ineligible.

4619 Work which involves replacing or upsizing drainage structures or culverts, or may have an adverse impact
4620 upstream or downstream, or on critical habitats, will require coordination with PA, EHP, and PA hazard
4621 mitigation staff to determine whether a Hydrologic and Hydraulic (H&H) study is needed. H&H studies are
4622 part of eligible permanent work projects and project costs. See Chapter 8: *Facility Located in or Impacting a*
4623 *Floodplain*.

4624 **Inundated and Submerged Roads**

4625 Restoration of sections of road with disaster-related surface damage will follow the guidance described
4626 above for roads and bridges. The guidance provided in this section explains the eligibility of funding for roads
4627 for which disaster damage is due to flood water inundation as a direct result of a federally declared major
4628 disaster. A submerged or inundated road is defined as a section of road that is covered by flood waters for
4629 any period of time. The inundation must have occurred as a direct result of a federally declared major
4630 disaster. When roads are inundated or submerged from flooding, driving on them can compromise the
4631 integrity of the road. When damage occurs on roads that have been inundated by flood water, FEMA
4632 provides funding for the repair when the applicant can substantiate the following conditions:

- 4633 ▪ The road is a public road;
- 4634 ▪ The road has visible (after flood waters have receded) and quantifiable damage that is a direct result of
4635 the major disaster, such as washouts, collapses, and slips; and
- 4636 ▪ Traffic-induced surface damage is the result of emergency vehicles performing eligible emergency work
4637 or the road is a single-access road that is required to be reopened due to lack of detour/alternate routes.

4638 **INUNDATED ROADS WITH VISIBLE DAMAGE**

4639 Work to repair road surface damage caused by the declared event (including damage from saturation and
4640 flood water inundation) that is visible and quantifiable during inspection once flood waters have receded,
4641 and directly attributed to the declared event is eligible for PA funding.

4642 Examples of major visible and quantifiable surface damage caused by the declared event includes, but is not
4643 limited to, major erosion, washouts, collapses, and slips. Minor surface damage to roads caused by the
4644 declared event is often similar to damage that may occur over time from other causes, such as the age of
4645 the road, traffic volume, and frequent rain.

4646 Distinguishing between pre-existing damage and minor damage caused by the declared event may be
4647 difficult. Distress evident on the surface, such as potholes or fatigue cracking is generally ineligible for repair
4648 as this type of damage is rarely caused directly by one incident.

4649 When evaluating whether or not eligibility of reported damage to a road that was inundated or submerged
 4650 was caused by the declared event, FEMA will evaluate the pre-disaster condition of the road and how the
 4651 incident caused the damage.

4652 **Documentation to Support Claimed Damage**

4653 The minimum documentation to support damage to inundated or submerged roads includes:

4654 **Table 20. Required Information to Support Damage to Inundated or Submerged Roads**

For Small and Large Projects
<ul style="list-style-type: none"> ▪ Pre-disaster and post-event photos or videos of impacted sections of road, or other documentation to demonstrate pre- and post-event surface condition. ▪ Maintenance records or other documentation establishing that the applicant has a routine maintenance program. These maintenance records may include, if applicable: bridge inspection reports, public meeting or contract work records, documentation of a pavement evaluation program or pavement management system (e.g., a regular documented pavement inspection using standards found in <i>Distress Identification Manual for the Long-Term Pavement Performance Program</i>);³¹⁴ and ▪ Documentation of any repairs following pre-disaster assessment, specific to each section of road claimed and/or documentation of any post-disaster repair work already completed, specific to each section of road claimed.

4655 In the absence of those records, FEMA reviews material purchase invoices and activity logs (and whatever
 4656 documentation is available) to determine if the damage was caused by the event. FEMA may review specific
 4657 other sections of the applicant’s road system to confirm the performance of regular maintenance activities
 4658 and to assist in making an informed decision on the condition of the road at the time the disaster occurred.

4659 FEMA does not provide PA funding for repair of damage caused by deterioration, deferred maintenance, the
 4660 applicant’s failure to take measures to protect a facility from further damage, or negligence.

4661 **INUNDATED ROADS WITHOUT VISIBLE SURFACE DAMAGE**

4662 Restoration work for roads that have experienced inundation by flood waters as a direct result of a declared
 4663 event is only eligible for PA funding if surface damage is visible and quantifiable during an inspection after
 4664 the flood waters have receded. Claims of subsurface damage based on the findings of an inspection for
 4665 sections of road without visible and quantifiable surface damage will not be considered eligible for PA
 4666 funding. Accordingly, costs associated with methods of inspection on sections of road without visible and
 4667 quantifiable surface damage are not eligible for PA reimbursement.

4668 **Projected Loss of Useful Service Life**

4669 Restoration work based on a projected loss of useful service life (that is the potential reduction in the road’s
 4670 remaining service life) is ineligible because it is not damage caused by the major disaster event. Service life

³¹⁴ <https://highways.dot.gov/sites/fhwa.dot.gov/files/docs/research/long-term-pavement-performance/products/1401/distress-identification-manual-13092.pdf>.

4671 is part of the design of roadways. Loss of useful service life is based on aging and use of the roadway.³¹⁵ For
 4672 example, if an applicant is claiming subsurface deterioration of a section of road that has experienced
 4673 inundation based on the findings of an inspection,³¹⁶ this alone does not constitute disaster-related damage
 4674 eligible for PA funding since such deterioration is not caused by a single incident but is the result of the use
 4675 of the road and normal weather conditions over time.

4676 **SURFACE DAMAGE RESULTING FROM REOPENING ROADS PREMATURELY**

4677 To help avoid damage to roads that have been inundated or had underlying layers saturated, applicants
 4678 should allow time for saturated underlying layers and soil to dry out prior to reopening roads to normal
 4679 traffic. If saturated roads are re-opened prematurely, they may sustain traffic-induced damage. This damage
 4680 is not a direct result of the disaster and may constitute negligence. Therefore, it is not usually eligible for PA
 4681 funding.³¹⁷ Exceptions include surface damage caused by vehicles performing eligible debris removal or
 4682 other emergency work under PA necessary as a result of the declared event or single-access roads that the
 4683 applicant determined were required to be reopened for emergency response purposes due to lack of
 4684 detour/alternate routes.

4685 In such cases, the applicant must provide documentation to justify reopening the road prematurely as
 4686 described below:

4687 **Table 21. Required Information to Support Damage Reopening Roads**

For Small and Large Projects
<ul style="list-style-type: none"> ▪ An explanation/justification for reopening the road prior to allowing saturated soil to dry (such as emergency response, the performance of eligible PA emergency protective measures, or emergency access); ▪ For emergency response traffic, documentation of emergency call logs and a map showing the route taken by the emergency vehicle(s); or ▪ If claiming surface damage from normal traffic loads due to reopening a single-access road immediately following the declared event or once flood waters have receded, documentation to support that no detour or alternate route was available and the road was required to reopen for emergency access.

4688 **CLOSED BASIN FLOODING**

4689 Closed basin flooding³¹⁸ can result in roads that remain submerged indefinitely as water is not able to drain
 4690 from closed basin areas. In such cases, it may not be feasible to wait until flood waters recede to safely and
 4691 effectively assess potential damage and provide time extensions. PA funding may be used to raise the

³¹⁵ See Chapter 6: *Loss of Useful Service Life*.

³¹⁶ Including destructive and non-destructive methods of inspection such as Ground-Penetrating Radar, Core Sampling, Soil Boring, and Falling Weight Deflectometers.

³¹⁷ See 44 C.F.R. §§206.223(a)(1) and (e).

³¹⁸ [FHWA Emergency Relief Manual](#).

4692 grades of eligible sections of road faced with long-term loss of use due to an unprecedented rise in closed
 4693 basin water level when closed basin flooding is directly attributed to the declared event.

4694 PA funding is generally limited to grade raises of highways and bridges of critical routes projected to
 4695 experience long-term loss of use due to closed basin flooding, as demonstrated by the applicant. Only those
 4696 routes that are critical to restoring traffic service are eligible for grade raises. Factors to evaluate whether
 4697 individual routes are critical include: functional classification; provision of critical or essential community
 4698 services (such as access for emergency response, schools, and mail/delivery vehicles); and availability of
 4699 alternate routes and/or detours. FEMA, in coordination with the recipient and applicant, will determine if the
 4700 claimed roadway is a critical route and eligible for grade raises based on the applicant’s request for
 4701 impacted sections of roads in closed basin flooding areas. It is not the intent of the PA program to raise the
 4702 grades in dips or other low spots along roadways that suffer inundation from chronic flooding problems.

4703 If requested by the applicant, FEMA will also consider permanent reroutes to move roadways outside of
 4704 closed basin flooding areas instead of grade raises if the applicant can demonstrate that a permanent
 4705 reroute is more cost effective than grade raises. Reroutes are subject to relocation requirements as well as
 4706 EHP review and approval to ensure the reroute does not have adverse impacts.

4707 **Documentation to Support Claimed Damage for Closed Basin Flooding**

4708 Permanent Work, including raising the grade of the roadway, is only eligible if the applicant can demonstrate
 4709 all of the following for closed basin flooding:

4710 **Table 22. Required Information to Support Closed Basin Flooding**

For Small and Large Projects
<ul style="list-style-type: none"> ▪ Information to support the closed basin flooding was directly attributed to the declared major disaster event and the long-term loss of use of critical routes. ▪ For closed basin flooding as a direct result of the declared major disaster event: <ul style="list-style-type: none"> ○ Information showing that the water elevation in the closed basin has reached historically high levels; ○ The rise in the water level occurred during the designated incident period; ○ Historic water level elevation and rainfall intensity records; and/or ○ Maintenance reports or other information that provides some historical perspective on events and water levels within the closed basin. ▪ For long-term loss of use of critical routes: Information demonstrating the length of time the roadway has been closed to traffic and is projected to remain closed to traffic based on the basin water level elevations that occurred as a direct result of the declared major disaster event.

4711 **GRAVEL ROADS**

4712 Gravel surface loss from damage or inundation is not assumed and cannot be based on projected or
 4713 estimated loss. The applicant must be able to demonstrate actual gravel surface loss. This includes
 4714 documentation indicating gravel loss directly attributed to the declared event (such as work logs and
 4715 material invoices quantifying the amount of aggregate gravel placed in the damaged section within 12
 4716 months of the start of the incident period) and/or photographs or video of the field of displaced gravel.

4717 If the applicant chooses to lay gravel on a longer section of the road, FEMA only pays for the portion of the
 4718 road that was disaster damaged. Gravel laid on non-disaster damaged sections of the road are not eligible.

4719 Corrugation of gravel roads is not eligible for repair or restoration. Corrugation (or “wash boarding”) is
 4720 associated with traffic in dry conditions and not attributable to inundation.

4721 Any post event rutting of gravel roads may be the result of premature opening of the road. Consequently, the
 4722 rutting is not eligible except under the limited circumstances outlined below.

4723 **Documentation to Support Gravel Loss**

4724 **Table 23. Required Information to Support Gravel Loss**

For Small and Large Projects
<ul style="list-style-type: none"> ▪ Documentation indicating gravel loss directly attributed to the declared event (e.g., work logs and material invoices quantifying the amount of aggregate gravel placed in the damaged section within 12 months of the start of the incident period). ▪ Photographs or video of the field of displaced gravel.

4725 **Documentation to Support Gravel Road Rutting**

4726 **Table 24. Required Information to Support Gravel Road Rutting**

For Small and Large Projects
<ul style="list-style-type: none"> ▪ For emergency response traffic, documentation of emergency call logs and a map showing the route taken by the emergency vehicle(s). ▪ If claiming rutting from normal traffic loads due to reopening a single-access road immediately following the declared event or once flood waters have receded, documentation, such as a work log indicating that the rutted section of road was graded and surface aggregate applied prior to the event.

4727 **DEMONSTRATING DISASTER-RELATED DAMAGE**

4728 Submerged roads should only be assessed for visible and quantifiable surface damage after flood waters
 4729 have receded in order to avoid additional damage. The applicant must substantiate surface damage claims
 4730 with supporting documentation as described below. FEMA will not accept a damage report simply based on a
 4731 claim that a section of road has experienced inundation without demonstrating any resulting surface
 4732 damage. Similarly, damage repair to an inundated or submerged road is not assumed to be eligible simply
 4733 because estimated repair costs were included in a joint preliminary damage assessment.

4734 **Water Control Facilities (Category D)**

4735 Water control facilities are those facilities built for the following purposes:

- 4736 ▪ Channel alignment;
- 4737 ▪ Recreation;
- 4738 ▪ Navigation;
- 4739 ▪ Land reclamation;

- 4740 ▪ Irrigation;
- 4741 ▪ Maintenance of fish and wildlife habitat;
- 4742 ▪ Interior drainage;
- 4743 ▪ Erosion prevention;
- 4744 ▪ Flood control; or
- 4745 ▪ Storm water management.
- 4746 They include:
- 4747 ▪ Dams and reservoirs;
- 4748 ▪ Levees and floodwalls;
- 4749 ▪ Lined and unlined engineered drainage channels;
- 4750 ▪ Canals;
- 4751 ▪ Aqueducts;
- 4752 ▪ Acequias
- 4753 ▪ Sediment and debris basins;
- 4754 ▪ Storm water retention and detention basins;
- 4755 ▪ Urban stormwater management infrastructure;
- 4756 ▪ Coastal shoreline protective devices;
- 4757 ▪ Irrigation facilities;
- 4758 ▪ Pumping facilities; and
- 4759 ▪ Navigational waterways and shipping channels.

4760 RESTORING THE CAPACITY OF CHANNELS, BASINS, AND RESERVOIRS

4761 Restoring the pre-disaster carrying or storage capacity³¹⁹ of engineered channels, debris and sediment
4762 basins, storm water detention and retention basins, and reservoirs may be eligible, if the facilities were not
4763 constructed by a federal agency and if the applicant provides documentation to establish:

4764 Table 25. Required Information to Support Pre-Incident Capacity

For Small and Large Projects
<ul style="list-style-type: none">▪ The pre-disaster capacity of the facility; and▪ That the applicant maintains the facility on a regular schedule.<ul style="list-style-type: none">○ Documentation supporting regular maintenance would be a 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.

³¹⁹ Survey data that is either recent or covers a multi-year period to substantiate the amount of new material reasonably attributable to the incident can be used to support pre-disaster capacity claims.

4765 If the applicant chooses to remove non-incident-related material along with that deposited as a result of the
4766 incident, the project is considered an Improved Project.

4767 **FLOOD CONTROL WORKS**

4768 Flood control works are those structures such as levees, flood walls, flood control channels, and water
4769 control structures designed and constructed to have appreciable effects in preventing damage by irregular
4770 and unusual rises in water levels.

4771 Restoration of damaged flood control works that are under the authority of another federal agency is
4772 ineligible. Secondary levees riverward of a primary levee are ineligible unless the secondary levee protects
4773 human life.

4774 **Buildings and Equipment (Category E)**

4775 Facilities under Category E include buildings, contents, equipment, and vehicles. Specific to Category E,
4776 insurance is generally available for building, contents, equipment, and vehicles, for most perils such as
4777 flood, wind, and fire; therefore, insurance should be the primary source of recovery for PA applicants.

4778 **BUILDINGS**

4779 Buildings include all structural and non-structural components, including mechanical, electrical, and
4780 plumbing systems.

4781 For buildings and building systems, distinguishing between damage caused by the incident and pre-existing
4782 damage may be difficult. Before making an eligibility determination, FEMA considers each of the following:

- 4783 ▪ Evidence of regular maintenance as described in Chapter 4;
- 4784 ▪ Evidence of pre-disaster condition, such as interior water stains from a leaky roof (in such cases, FEMA
4785 evaluates whether the roof was repaired prior to the incident);
- 4786 ▪ The severity and impacts of the incident; and
- 4787 ▪ Whether the applicant took prudent actions to prevent additional damage.

4788 Mold remediation and removal of mud, silt, or other accumulated debris is eligible as Permanent Work when
4789 conducted in conjunction with restoration of the facility.

4790 A Public Housing Authority facility is only eligible for Permanent Work if Congress does not appropriate funds
4791 to U.S. Department of Housing and Urban Development (HUD) for emergency capital needs for the facility.

4792 **Earthquake Damage to Welded Steel Moment Frame Buildings**

4793 FEMA has specific eligibility criteria for evaluating and repairing earthquake damage to buildings constructed
4794 with welded steel moment frames. For details see Chapter 7: *Safety Inspections* and Chapter 8: *Preliminary
4795 Safety Screening and Safety Inspections*. Generally, detailed analytical or experimental studies or Level 2
4796 evaluations as described in [Recommended Post-Earthquake Evaluation and Repair Criteria for Welded Steel
4797 Moment-Frame Buildings \(FEMA-P-352\)](#), are ineligible unless FEMA provides approval before the applicant

4798 initiates the work. Repairs consistent with applicable [International Existing Building Code](#) are eligible for
4799 reimbursement.

4800 CONTENTS AND SUPPLIES

4801 Building contents include furnishings, equipment, consumable or other supplies, files, records, research-
4802 related contents, animals, irreplaceable collections and individual objects, library books, publications. and
4803 specialized items related to the function of the building and the service it provides. Contents can also
4804 include equipment on the property rather than within the building. Replacing destroyed supplies with the
4805 same number of comparable items is eligible. The applicant may replace supplies with different items used
4806 for the same general purpose and FEMA caps the eligible cost at the estimated amount for items
4807 comparable to those damaged. Contents damaged as a result of the disaster are eligible even if the building
4808 housing the contents is not damaged. More information about contents eligibility is available in Appendix F:
4809 Work Eligibility Considerations by Type of Facility: Work Eligibility Considerations for Contents.

4810 Files

4811 Eligible activities associated with the recovery of files include, but are not limited to:

- 4812 ▪ Recovery of damaged hard copies;
- 4813 ▪ Stabilizing the damaged hard copies;
- 4814 ▪ Sanitizing damaged hard copies;
- 4815 ▪ Photocopying or scanning damaged hard copies to re-establish files; and
- 4816 ▪ Recovering data from water-damaged computer hard drives and portable or external drives.

4817 Recovery of damaged hard copies includes labor and materials, such as bags, boxes, and containers.
4818 Stabilizing damaged hard copies includes freeze-drying. Photocopying or scanning includes labor and
4819 materials such as new folders and paper.

4820 Not all activities are eligible. Examples of ineligible activities include:

- 4821 ▪ Establishing new information databases;
- 4822 ▪ Manually entering data that was lost in damaged computers;
- 4823 ▪ Scanning re-established hardcopy files into computers to create digital files; and
- 4824 ▪ Deciphering photocopies of damaged hard copies.

4825 Library Books and Publications

4826 Replacement of damaged or destroyed library books and publications is eligible based on the pre-disaster
4827 inventory of the quantities of the books and publications. Re-shelving, cataloging, and other work incidental
4828 to the replacement of library books and publications is also eligible.

4829 However, special library collections, including rare books, manuscripts, and other fragile materials, are only
4830 eligible for treatment, not replacement.

4831 Irreplaceable Collections and Individual Objects

4832 Collections and individual objects are artifacts, specimens, artworks, archives, public records, and other
 4833 items that are often considered irreplaceable because of their artistic, educational, historic, legal, scientific,
 4834 or social significance. They are nonliving and, therefore, do not include animals or plant material, and are
 4835 usually one-of-a-kind. Eligible collections and individual objects may be in storage or on display in a public or
 4836 PNP facility and may include items located outdoors, such as sculptures and public art installations.
 4837 Documentation of collections and individual objects generally include accession, catalog, and inventories.

4838 Stabilization of damaged collections or individual objects is eligible. Stabilization is a series of treatment
 4839 measures to maintain the integrity of a collection or object and to minimize deterioration. Stabilization
 4840 involves taking the minimum steps necessary to return a collection or object to a condition in which it can
 4841 function in the same capacity as it did prior to the incident. This includes:

- 4842 ▪ Treating damaged items utilizing environmental controls to achieve proper temperature and humidity;
 4843 and
- 4844 ▪ Chemical or mechanical cleaning to stabilize items to prolong their existence, maintain their integrity,
 4845 and minimize further deterioration from the damaging effects of the incident.

4846 Additional treatment beyond stabilization is eligible if it is necessary to maintain the integrity of the collection
 4847 or object and return it to its pre-disaster function.



4848 Terminology: Collections & Conservation

4849 **Archives** are materials created or received by a person, family, or organization, public or private, and
 4850 preserved because of the enduring value they contain, or as evidence of the functions and
 4851 responsibilities of their creator, especially those materials maintained using the principles of
 4852 provenance, original order, and collective control.

4853 **Accession** is a formal process used to legally accept and record a specimen or artifact as a collection
 4854 item.

4855 A **catalog** is a full record of information specific to an item and cross-referenced to other records and
 4856 files, including identification and documentation of the material.

4857 **Stabilization** is a series of treatment measures intended to maintain the integrity of a collection or
 4858 object and to minimize deterioration. It involves the minimum steps necessary to return a collection or
 4859 object to a condition in which it can function in the same capacity as it did prior to the disaster.

4860 **Conservation** is the preservation of a collection or object for the future. Conservation activities include
 4861 examination, documentation, treatment, and preventive care, supported by research (e.g., scholarly
 4862 and technological, x-rays, paint sampling) and education.

4863 **Special library collections** include unique, rare, printed books, first editions (often author-signed),
 4864 manuscripts, archives, artifacts, photos, engravings, graphics, music, and ephemera, as well as limited
 4865 edition print runs of special collections of maps or other important topics.

4866 In some cases, costs associated with restoring an item to pre-disaster—but not original— condition may be
 4867 eligible. For example, repairing a tear in a painting that was a direct result of the incident may be eligible,
 4868 whereas costs to remove signs of pre-disaster aging, such as layers of old varnish, are ineligible.

4869 Costs associated with the development of a treatment plan for a damaged collection or individual object are
 4870 eligible. Treatment needs to be conducted by a qualified conservation professional with the appropriate
 4871 specialty and in accordance with the American Institute for Conservation Code of Ethics and Guidelines for
 4872 Practice.³²⁰ FEMA, in consultation with the recipient and applicant, may recommend no treatment when non-
 4873 intervention best serves to promote the preservation of damaged items.

4874 Replacement of destroyed irreplaceable collections or objects is ineligible. Collections and individual objects
 4875 damaged to the extent that stabilization is not practicable or possible are considered destroyed.

4876 Restoring materials, equipment, and exhibition furnishings associated with the storage, display,
 4877 preservation, or exhibition of collections and individual objects is eligible. These may include, but are not
 4878 limited to:

- 4879 ▪ Equipment regulating temperature or humidity;
- 4880 ▪ Exhibit panels;
- 4881 ▪ Models; and
- 4882 ▪ Video and audio equipment.

4883 **Research-Related Contents**

4884 Reagents and specimen collections are eligible for replacement based on the following criteria.

4885 The number of units of each reagent eligible for replacement is equal to the number lost OR to the number
 4886 necessary to restore basic research activity, whichever is less.

4887 FEMA reimburses the purchase price from commercial sources or other institutions, whichever is less. The
 4888 replacement of reagents that are unique such that they are considered an outcome of a research program is
 4889 ineligible.

4890 Terminology: Reagents and Specimen Collections

4891 A **reagent** is a substance used in a chemical reaction to detect, measure, examine, or produce other
 4892 substances. Some reagents are very common and available for purchase from commercial sources.

4893 A **specimen** is a portion or quantity of material for use in testing, examination, or study, including blood
 4894 plasma and flesh tissue.

4895 A **specimen collection** is a repository of specimens related to biomedical, marine, or agricultural
 4896 research.

4897 Replacing a representative, but not necessarily a whole portion, of a specimen collection may be eligible. To
 4898 be eligible for replacement, the specimen types should be available for purchase from commercial sources
 4899 or other institutions and support an ongoing eligible educational or medical program.

³²⁰ www.culturalheritage.org/about-conservation/code-of-ethics.

4900 **Animals**

4901 Animals housed or exhibited in an eligible facility are eligible for replacement with the same number of
4902 comparable animals if they are:

- 4903 ▪ Injured to the extent they are no longer able to function for the intended purpose;
- 4904 ▪ Killed;
- 4905 ▪ A destroyed specimen; or
- 4906 ▪ A damaged specimen that is not recoverable.

4907 An animal is ineligible for replacement if a comparable animal is not available for purchase, or the applicant
4908 is unable to obtain a comparable one at a reasonable cost.

4909 The replacement of animals on loan to an eligible facility at the time they are destroyed is eligible if the
4910 applicant substantiates legal responsibility.

4911 Additionally, FEMA may provide PA funding for actions taken to save the lives of these animals as a Category
4912 B emergency protective measure.



4913 **Examples: Animals Eligible for Replacement**

4914 Eligible animals may include, but are not limited to:

- 4915 ▪ Police animals;
- 4916 ▪ Trained and certified rescue dogs;
- 4917 ▪ Animals in museums, zoos, or publicly owned nature centers;
- 4918 ▪ Fish in fish hatcheries;
- 4919 ▪ Taxidermy specimens (animals preserved and mounted in lifelike representations);
- 4920 ▪ Animals used by rehabilitation facilities as part of diagnosis or treatment; and
- 4921 ▪ Laboratory animals used in an active research program.

4922 **Determining Costs**

4923 The estimated cost to replace an animal is usually determined through market surveys. Costs associated
4924 with acquiring donated, loaned, or wild animals as replacement animals are eligible if they do not exceed the
4925 estimated cost of purchasing a comparable animal.

4926 When a destroyed animal is replaced through a donation or loan of a comparable animal, costs associated
4927 with the purchase of another comparable animal are ineligible.

4928 For laboratory animals, eligible costs associated with replacement include, but are not limited to, the
4929 replacement cost of a laboratory animal that is as genetically close as possible to, but does not exceed, the
4930 genetic progression of the lost animal AND can be reasonably procured commercially. If an identically
4931 genetic animal is not available, the eligible cost is based on a readily procured animal that is as genetically

4932 close as possible to the original animal. The applicant, using its scientific research staff, an independent
4933 member of the scientific community, or a certified expert, needs to make reasonable decisions on the
4934 genetic likeness of the replacement lab animals.

4935 Ineligible costs associated with replacing laboratory animals include:

- 4936 ▪ The cost of reproducing a new animal with all the characteristics of the lost animal to re-establish
4937 research;
- 4938 ▪ The cost of using a laboratory to perform a breeding program to advance benchmark stock to the genetic
4939 changes lost because of the incident;
- 4940 ▪ The cost associated with surgery required to replace a surgically altered animal; and
- 4941 ▪ The cost associated with the replacement of a laboratory animal when an animal of similar genetic
4942 characteristics can be obtained at no cost from other researchers or institutions.

4943 If the applicant requests, and the recipient approves, other than in-kind and exact number of replacement
4944 animals, FEMA caps the federal share based on the estimated in-kind replacement costs.

4945 **EQUIPMENT**

4946 Equipment includes vehicles or standalone machinery as well as construction or heavy equipment. Repairing
4947 damaged or replacing destroyed equipment with the same number of comparable items is eligible.³²¹
4948 Comparable items are similar in age, condition, and capacity. The applicant may replace equipment with
4949 different items used for the same general purpose. However, FEMA caps the eligible cost at the estimated
4950 amount for items comparable to those damaged.

4951 When a used item is not reasonably available (within a reasonable cost, time, or distance) or does not meet
4952 applicable national consensus standards, the purchase of a new item with similar capacity is eligible.

4953 If the cost to replace the item is less than the cost to repair it, FEMA limits PA funding to the replacement
4954 cost.

4955 **VEHICLES**

4956 Vehicles include motorized on-road licensed vehicles and non-highway or off-road driven wheeled vehicles.
4957 When vehicles are not repairable, FEMA uses “blue book” values or similar price guides to estimate the
4958 eligible cost.

4959 **Utilities (Category F)**

4960 Utilities include:

- 4961 ▪ Water storage facilities, treatment plants, and delivery systems;
- 4962 ▪ Power generation, transmission, distribution, and storage facilities, including, but not limited to, wind
4963 turbines, generators, substations, anaerobic digestors, solar power installations, and power lines;

³²¹ 44 C.F.R. § 206.226(h).

- 4964 ▪ Natural gas transmission and distribution facilities;
- 4965 ▪ Sewage collection systems and treatment plants; and
- 4966 ▪ Communication systems.

4967 **POWER RESTORATION**

4968 For power restoration projects that meet both emergency work and the permanent work eligibility criteria
 4969 (i.e., being necessary to reduce or eliminate an immediate threat to life, health or safety and restoring the
 4970 facility in accordance with applicable codes, standards and EHP requirements) applicants may either claim
 4971 the work as an emergency protective measure (Category B) or as Permanent Work (Category F).

4972 **RIGHT-OF-WAY CLEARANCE**

4973 It is the applicant's responsibility to maintain its ROW. However, FEMA may fund limited clearance of
 4974 incident-related debris from the ROW to enable the applicant or emergency workers to obtain access to the
 4975 facility. Additionally, if trees in the vicinity of the facility were damaged by the incident and an arborist
 4976 confirms that the trees cause an immediate threat of further damage to the facility (e.g., overhead power
 4977 lines), FEMA may provide PA funding to remove those trees. Any further clearance of debris in the ROW is
 4978 ineligible for FEMA funding.

4979 **POWER: TRANSMISSION AND DISTRIBUTION SYSTEM CONDUCTOR REPLACEMENT**

4980 For electrical transmission or distribution systems, determining the disaster-related damage to some
 4981 components, such as poles, guys, and cross-arms, can usually be accomplished by visual inspection.
 4982 However, determining the full extent of disaster-related damage to conductors is more challenging,
 4983 particularly with older systems. A conductor is eligible for replacement when it is stretched beyond the point
 4984 where it can be effectively repaired and re-sagged to meet appropriate clearances, sag, and tension, and to
 4985 meet pre-disaster reliability.



4986 **Example: Conductor Spans**

4987 The number of conductor spans is calculated by multiplying the number of conductors per span by the
 4988 number of spans.

4989 For example, a three-phase line section with three spans has 12 conductor spans:

- 4990 ▪ $4 \text{ conductors} \times 3 \text{ spans} = 12$

4991 If a single conductor span has damage in more than one location, it only counts as one damaged
 4992 conductor span. Similarly, if more than one conductor is damaged, it still only counts as one damaged
 4993 span.

4994 A conductor is only eligible for replacement (reconductoring) when the applicant cannot effectively repair it
 4995 because one of the following exists within a line section:

- 4996 ▪ Twenty-five percent or more of the conductor spans have visible damage, such as broken strands,
 4997 splices, or sleeves (installed as a result of the incident) or severe pitting, burns, or kinks;
- 4998 ▪ Thirty percent or more of the line spans are visually stretched (out of sag), or do not meet clearance
 4999 requirements such as conductor-to-conductor or conductor-to-ground clearance;

- 5000
- 5001
- 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;
- 5002
- 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;
- 5003
- 5004
- 5005
- Sixty-five percent or more of any combination of the damage described in the bullets above; or
- 5006
- Evidence provided by a licensed Professional Engineer that demonstrates the conductor is damaged beyond repair.
- 5007
- 5008
- 5009
- 5010
- 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 reconducted.



Terminology: Line Section

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5013

A **line section** is a group of contiguous spans selected for evaluation. A span is the distance between two poles or structures.

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The 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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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 or SLTT codes or standards, including National Electrical Safety Code or Rural Utilities Service (RUS) standards.

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The use of advanced conductors or other technologies that improve the resilience of power generation, transmission, and distribution facilities may also be eligible for reconductoring when the community has adopted applicable electrical Codes and Standards, as referenced in Chapter 8. Additionally, even where the community has not adopted applicable Codes and Standards, advanced conductors or other resilient technologies may be eligible as an upgrade through PA mitigation where the community requests the upgrade and it meets the benefit cost analysis (BCA), or through an Improved Project. The Department of Energy (DOE) has developed resources to support a more resilient nation and an improved awareness of

5037 advanced transmission technologies.³²²If the damage does not meet the criteria for replacement, only the
5038 repair of the damaged line section(s) is eligible.

5039 To document the pre-disaster condition of a conductor, the applicant should provide the following
5040 information:

5041 **Table 26. Required Information to Support Pre-disaster Conductor Condition**

For Small and Large Projects	
	<ul style="list-style-type: none">▪ 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 C.F.R. §1730.25, Corrective action (RUS borrowers only).▪ Staking sheets.

5042 If the applicant provides the information above, FEMA does not require further documentation to establish
5043 pre-disaster condition. The applicant is not precluded from substantiating the pre-disaster condition with
5044 other documentation if it is unable to provide the documentation described above.

5045 **Parks, Recreational, Other (Category G)**

5046 Examples of eligible publicly owned facilities in this category include:

- 5047 ▪ Mass transit facilities such as railways;
- 5048 ▪ Beaches;
- 5049 ▪ Parks;
- 5050 ▪ Playground equipment;
- 5051 ▪ Swimming pools;
- 5052 ▪ Bath houses;
- 5053 ▪ Tennis courts;
- 5054 ▪ Boat docks;
- 5055 ▪ Picnic tables;
- 5056 ▪ Golf courses;
- 5057 ▪ Ball fields;

³²² [Department of Energy Advanced Transmission Technologies, December 2020](#)

- 5058 ▪ Fish hatcheries;
- 5059 ▪ Ports and harbors;
- 5060 ▪ Piers; and
- 5061 ▪ Other facilities that do not fit in Categories C–F

5062 Unimproved natural features are ineligible.

5063 Nature-based solutions, which include plantings (including trees, shrubs, and other vegetation), are eligible
5064 when they are part of the restoration of an eligible facility for the purpose of erosion control, to minimize
5065 sediment runoff, improve water quality and protect coastal property.

5066 Grass and sod replacement are eligible if it is an integral part of the restoration of an eligible recreational
5067 facility. Vegetation replacement is also eligible if necessary to restore the function of the facility (e.g., if
5068 vegetation is a component of a sewage filtration system).

5069 Plantings required to mitigate environmental impacts, such as those required to address impacts to
5070 wetlands or endangered species habitat, are eligible when required by a Federal or SLTT code or standard or
5071 permit that meets the criteria described in Chapter 8: *Permit Requirements*.

5072 Long-term monitoring to ensure vegetative growth is ineligible even if it meets the requirements above.

5073 Replacement of damaged trees, shrubs and other vegetation during site restoration is eligible. Replacement
5074 of damaged crops, agricultural land, or other vegetation not at the site of an eligible facility is ineligible.

5075 **BEACHES**

5076 Replacement of sand on beaches is only eligible under certain conditions.³²³ A beach is considered an
5077 eligible facility when all of the following conditions exist:

- 5078 ▪ The beach is not under the specific authority of USACE;³²⁴
- 5079 ▪ The beach was constructed by the placement of imported sand—of proper grain size—to a designed
5080 elevation, width, and slope;³²⁵ and
- 5081 ▪ The applicant has established and adhered to a maintenance program involving periodic renourishment
5082 with imported sand to preserve the original design or a specific engineered design that is justified and
5083 clearly stated in the maintenance program.³²⁶ Placement of sand under the following circumstances
5084 does not meet this requirement:
 - 5085 ○ Emergency or “one-time” nourishment, even if to a design;
 - 5086 ○ Emergency or “as-needed” renourishments when the beach has eroded to a critical condition where
5087 all original nourishment is gone;
 - 5088 ○ Partial renourishments or “hot-spot” nourishments; or

³²³ 44 C.F.R. §§ 206.226(j) and 206.201(c).

³²⁴ 44 C.F.R. § 206.226(a).

³²⁵ 44 C.F.R. § 206.226(j)(2)(i).

³²⁶ 44 C.F.R. § 206.226(j)(2)(ii).

- Renourishment using material from a channel maintenance project when dredge spoils do not meet compatibility design criteria and the amount placed is dependent on the amount dredged, not the beach design.

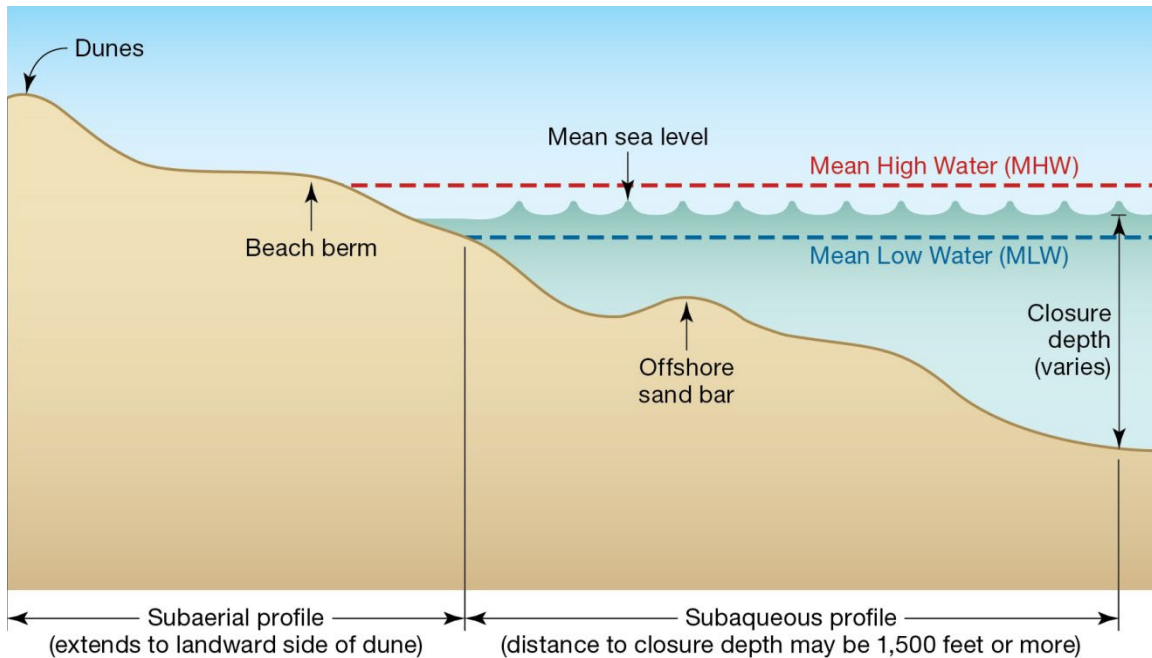


Figure 16. Typical Beach Profile

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5094 Sand replenishment for beaches under the specific authority of the USACE is not eligible for PA funding.

5095 The amount of sand eligible for replacement is limited to the amount lost due to the incident. The applicant

5096 needs to substantiate the amount of sand claimed with pre-and post-incident profiles that extend at least to

5097 the seaward edge of the sub-aqueous nearshore zone (Depth of Closure) (see Figure 12. *Typical Beach*

5098 *Profile*). If pre-storm profiles are not available, documentation may include design documents and

5099 renourishment history. The applicant needs to adjust quantities to account for any erosion that occurred

5100 between the pre- and post-incident profiles.

5101 Replacing sand that eroded prior to the incident is ineligible. However, FEMA encourages the applicant to

5102 renourish the project to achieve the design profile.

5103 To document eligibility of a beach as a designed and maintained facility, the applicant must provide the

5104 following information:

- 5105 ▪ Design studies, plans, construction documents, and as-builts for the original nourishment;
- 5106 ▪ Documentation and details of the maintenance plan, including how the need for renourishment is
- 5107 determined and funded; and
- 5108 ▪ Renourishment history, design studies, and as-builts for every renourishment, including construction
- 5109 documents if applicable.

5110 FEMA may request only a portion of this information if the beach was previously determined eligible.

5111 Beach access crossover structures are eligible facilities for repair or replacement. Sand placement adequate
5112 for covering crossover footings is eligible, unrelated to eligible beach sand replacement.

5113 **Landslides and Slope Stabilization**

5114 If an eligible facility is located on a slope and is damaged as a result of a landslide or slope instability
5115 triggered by the incident, FEMA determines the stability of the slope that supports the facility before it
5116 approves PA funding to restore the facility. Restoration of the integral ground that supports the facility may
5117 also be eligible. The impact of slope stability on eligibility is as follows:

- 5118 ▪ If the site is stable, permanent restoration of the facility and its integral ground is eligible.
- 5119 ▪ If the site is unstable and there is no evidence of pre-disaster instability after the facility was
5120 constructed, permanent restoration of the facility and its integral ground is eligible, including measures
5121 to stabilize the integral ground.
- 5122 ▪ If the site is unstable and there is evidence of pre-disaster instability after the facility was constructed,
5123 restoration of the facility's integral ground is ineligible. Restoration of the facility is eligible only upon the
5124 applicant stabilizing the site and restoring the integral ground.

5125 Site inspections and limited geotechnical assessments to determine site stability and to obtain a technical
5126 opinion of the cause of the slope failure are eligible.

5127 Permanent repair to stabilize natural ground that is not integral to an eligible facility's function is ineligible.

5128 FEMA may approve permanent relocation of the facility if the facility is subject to repetitive heavy damage
5129 and relocation is cost-effective. Eligible costs for relocation are described in Chapter 8: *Relocation*.

5130 The applicant may request an Alternate Project if restoration of the facility is not feasible because of soil
5131 instability.

5132 **Repair vs. Replacement**

5133 When evaluating whether a damaged facility is eligible for replacement, FEMA compares the estimated
5134 repair cost with the estimated replacement cost and evaluates the feasibility of repairing the facility.³²⁷

5135 A facility is considered repairable when:

- 5136 ▪ The cost to repair the disaster-related damage does not exceed 50% of the cost to replace the facility
5137 based on its pre-disaster size, capacity, and function; and
- 5138 ▪ It is feasible to repair the facility so that it can perform the pre-disaster function as well as it did prior to
5139 the incident.³²⁸

³²⁷ 44 C.F.R. § 206.226(f).

³²⁸ 44 C.F.R. § 206.226(f)(1).

5140 The comparison of the repair cost to the replacement cost results in a fraction that expresses repair as a
5141 percentage of replacement. The percentage is calculated with the estimated repair cost as the numerator
5142 and the estimated replacement cost as the denominator. FEMA refers to this as the “50% Rule.”

5143 The purpose of the 50% Rule is to make an early determination on whether it is more prudent to repair or
5144 replace a facility. It is not intended to be a full calculation of all eligible project costs. FEMA does not perform
5145 the calculation when it is not feasible to restore the facility so that it can perform its pre-disaster function as
5146 well as it did before. If the restoration of the facility is not feasible, replacement is eligible.

5147 The feasibility evaluation criteria is crucial in evaluating whether it is practical and technically feasible to
5148 repair a facility so it can perform to the same pre-disaster function from an engineering standpoint. Qualified
5149 professionals, such as professionally licensed individuals, qualified cost estimators, construction managers,
5150 and staff with other technical expertise, as necessary review feasibility studies and ancillary information
5151 provided to FEMA when a facility is not considered technically repairable under 44 C.F.R § 206.226(f)(2).

5152 A floodplain manager’s substantial damage determination is part of the NFIP eligibility process and is
5153 separate and distinct from the PA eligibility process for determining whether a facility is eligible for
5154 replacement or relocation. FEMA determines whether replacement costs are eligible for PA funding based on
5155 the 50% Rule. The substantial damage³²⁹ determination is used to determine whether certain floodplain
5156 management requirements are triggered in communities participating in the NFIP.

5157 **CALCULATION**

5158 The repair cost estimate (numerator) is the estimated cost of repairing disaster-related damage only and
5159 includes costs related to compliance with codes and standards that apply to the repair of the damaged
5160 elements only.³³⁰ The numerator does not include costs associated with:

- 5161 ▪ Upgrades of non-damaged elements which are not directly associated with the method of repair, even if
5162 required by codes or standards (e.g., elevation of an entire facility triggered by repair);
- 5163 ▪ Selective demolition beyond that which is essential to repair the damaged elements;
- 5164 ▪ Site work;
- 5165 ▪ Soft costs;
- 5166 ▪ Contents;
- 5167 ▪ Hazard mitigation measures; or
- 5168 ▪ Emergency Work.

³²⁹ [What is Substantial Damage?](#)

³³⁰ This includes consensus-based codes, specifications, and standards.



Terminology: Site Work and Soft Costs

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Site Work is any exterior work at the site. Examples include:

- Excavation
- Backfill
- Erosion control
- Utility installation
- Paving

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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The replacement cost estimate (denominator) is the estimated cost of replacing the facility based on its pre-disaster design (size and capacity) and function in accordance with applicable codes or standards. The denominator does not include costs associated with:

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- Changes triggered by PA's Consensus-Based Codes and Standards;
- Demolition;
- Site work;
- Soft costs;
- Contents;
- Hazard mitigation measures; or
- Emergency Work.

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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.

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Request for Replacement

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The applicant should submit its request for replacement within one year of the Declaration. The request should include both repair and replacement cost estimates with supporting documentation, prepared in accordance with the requirements described in Chapter 9: *Applicant Estimates*.

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FEMA's professionally licensed engineers and architects, qualified cost estimators, construction managers, and staff with other technical expertise, as necessary, develop or review and validate the estimates used in

5201 the 50% Rule calculations. Re-running the calculation is appropriate if there is an error in the initial
5202 calculation by FEMA, but not because initial estimates are revised.

5203 For any replacement requests over \$5 million, FEMA submits the estimates to an independent third-party for
5204 an additional review of the estimates. FEMA considers the results of the third-party review prior to approving
5205 replacement.

5206 Eligible Funding

5207 If replacement is eligible either because it is not feasible to restore the facility so that it can perform its pre-
5208 disaster function as well as it did before or based on the 50% Rule, the actual replacement cost is eligible.
5209 Alternatively, the applicant may elect to repair the facility in conformance with applicable codes and
5210 standards. In this case, FEMA limits the eligible cost to the estimated cost of repair or replacement,
5211 whichever is less.³³¹

5212 If the facility is not eligible for replacement based on the 50% Rule but the **total** estimated repair cost
5213 exceeds the **total** estimated replacement cost (not the estimated costs used for the 50 percent calculation),
5214 FEMA caps the total eligible cost at the **total** estimated replacement cost.

5215 The costs to comply with a local floodplain management ordinance that requires elevation or floodproofing of
5216 a substantially damaged facility in an SFHA are eligible for PA funding. These costs are not included in the
5217 repair cost of the 50% Rule calculation but are included in the replacement cost of the calculation.
5218 Therefore, the repair cost for the 50% Rule calculation is estimated without regard to whether the facility
5219 receives a substantial damage determination³³² or whether the facility contains a critical action.

5220 Relocation is only eligible for PA funding if it meets the requirements of Chapter 8: *Relocation*. If compliance
5221 with a code or standard is not feasible without relocating a facility and relocation is not eligible for PA
5222 funding, FEMA caps the funding without including the costs related to relocation and considers it an
5223 Improved Project.

5224 Costs associated with demolition of a facility that is eligible for replacement are eligible as part of the
5225 Permanent Work project to replace the facility. Eligible costs include removal, recycling, and disposition of
5226 the associated demolition debris.

5227 PA mitigation can be applied to replacement projects. Specifically, cost-effective PA hazard mitigation
5228 funding will be eligible for inclusion on replacement projects (including Improved Projects involving
5229 relocation). The total eligible project cost is determined after PA hazard mitigation costs are added and all
5230 reductions are accounted for. In cases where the eligible repair costs for a replacement project are fully

³³¹ 44 C.F.R. § 206.226(f)(2).

³³² A floodplain manager's substantial damage determination is part of the NFIP eligibility process and is separate and distinct from the PA eligibility process for determining whether a facility is eligible for replacement or relocation. FEMA determines whether replacement costs are eligible for PA Program based on the criteria in Chapter 8: *Repair vs. Replacement*. FEMA determines whether relocation costs are eligible for PA funding based on the criteria in Chapter 8: *Relocation* and 8: *Hazard Mitigation*.

5231 covered by insurance, the PA hazard mitigation may still be eligible if the "total eligible project cost,"
5232 including mitigation, meets or exceeds the minimum project threshold.

5233 As discussed in Chapter 10: *Environmental and Historic Preservation*, if an applicable code or standard
5234 requires that a historic facility be restored in a certain manner and does not allow other options, the cost to
5235 restore the facility in accordance with the code or standard is eligible and may exceed the estimated
5236 replacement cost.³³³ A historic facility is defined as one listed in, or eligible for listing in, the National
5237 Register of Historic Places.³³⁴

5238 Replacement of Components of a Facility or System

5239 FEMA does not apply the 50% Rule to a facility's structural or mechanical components (e.g., windows; roofs;
5240 heating, ventilation, and air conditioning (HVAC); electrical; plumbing). For example, FEMA does not apply the
5241 50% Rule to a damaged HVAC system to determine whether the system should be repaired or replaced
5242 because it is a component of a building. If the HVAC system is repairable, as determined by an inspector or
5243 engineer with appropriate technical expertise, FEMA limits its funding to the repair of the system.

5244 For facilities that are systems composed of multiple components that are easily segregated, FEMA applies
5245 the 50% Rule to individual components of the system, rather than the entire system. The following are
5246 examples of facilities that are systems to which FEMA applies the 50% Rule calculation to individual
5247 components:

- 5248 ▪ Drainage channel or irrigation system: a section from damaged node to damaged node, which is where
5249 there are intersections or connecting points.
- 5250 ▪ Water or sewer line system: a section of piping from damaged manhole to damaged manhole, a lift
5251 station, or a manhole structure.
- 5252 ▪ Water or wastewater treatment plant: a control building, clarifier, or sedimentation pond.
- 5253 ▪ Electrical distribution systems are evaluated for replacement based on the criteria in Chapter 8: *Power:
5254 Transmission and Distribution System Conductor Replacement*.

5255 The following are examples of facilities to which FEMA applies the 50% Rule to the entire facility:

- 5256 ▪ Bridges;
- 5257 ▪ Culverts;
- 5258 ▪ Buildings;
- 5259 ▪ Pumping stations;
- 5260 ▪ Piers;
- 5261 ▪ Pools, including integral pumping;
- 5262 ▪ Equipment; and

³³³ 44 C.F.R. § 206.226(f)(3).

³³⁴ National Register of Historic Places (U.S. National Park Service) (nps.gov).

- 5263 ▪ Lighting structures.

5264 Relocation

5265 There are opportunities for relocating a facility utilizing PA funding.

5266 FEMA-Directed Relocation

5267 The Regional Administrator may approve funding for and require restoration of a destroyed facility at a new
5268 location when all of the following conditions apply:

- 5269 ▪ The facility is subject to repetitive heavy damage because of its location. For example, facilities located
5270 in a SFHA or wildland-urban interface³³⁵ and subject to repetitive heavy flood or fire damage;
- 5271 ▪ Project approval is not barred by other regulations; and
- 5272 ▪ The overall project, including all costs, is cost-effective.
 - 5273 ○ If the cost to relocate the facility is less than the eligible cost to replace the facility at its original
5274 location (the value of the land at the original site is not included as part of this evaluation) then the
5275 project is cost effective. In instances where the cost of relocation exceeds the cost to replace the
5276 facility at its original location FEMA uses its BCA process and software³³⁶ to determine cost
5277 effectiveness.³³⁷

5278 If the Regional Administrator requires an applicant to relocate, and the applicant does not feel that
5279 relocating would be in the best interest to the community it serves, the applicant can choose to use the
5280 flexibility of an Alternate Project.³³⁸ An Alternate Project allows eligible funding to be used to repair or expand
5281 other public facilities, purchase capital equipment, or perform hazard mitigation measures unrelated to the
5282 original facility. If relocation of a facility is not feasible or cost effective, the Regional Administrator shall
5283 disapprove Federal funding for the original location.³³⁹

5284 Applicant-driven: Repair vs. Replacement

5285 When an applicant's facility is destroyed (i.e., eligible for replacement) and the Regional Administrator does
5286 not require the facility to be relocated, the applicant can request the facility be built at a different location
5287 through an Improved Project.

5288 When an applicant's facility is repairable, the applicant can choose to relocate the facility through an
5289 Improved Project. The eligible funding will be capped based on the repair costs.

5290 Code-Driven: Part 9 & Other Code and Standard Relocations

³³⁵ The wildland-urban interface (WUI) is the area between wildland and urban land.

³³⁶ www.fema.gov/benefit-cost-analysis.

³³⁷ 44 C.F.R. § 206.226(g)(1)

³³⁸ 44 C.F.R. § 206.226(g)(4)

³³⁹ 44 C.F.R. § 206.226(g)(5)

5291 An applicable Federal or SLTT code or standard, such as a floodplain management regulation, may also
5292 require that a damaged facility be relocated away from a hazardous area (e.g., floodway). If compliance with
5293 a code or standard is not feasible without relocating a facility and relocation is not eligible for PA funding,
5294 FEMA caps the funding, without including the costs related to relocation, and considers it an Improved
5295 Project.

5296 Cost-effective PA hazard mitigation funding is allowable on replacement projects (including improved
5297 projects involving relocations). Where relocation is not required by an applicable code or standard, an
5298 applicant can request FEMA fund a relocation as a mitigation measure if it meets the requirements identified
5299 in the Hazard Mitigation section of this chapter. In this case, FEMA evaluates the cost effectiveness using its
5300 BCA tool.

5301 **Eligible Work and Funding**

5302 Eligible work associated with relocation includes land acquisition and construction of necessary support
5303 facilities, such as roads, parking lots, and utilities. Demolition and removal of the original facility including
5304 costs for deconstruction and reuse of materials are also eligible if deemed necessary.³⁴⁰ FEMA limits PA
5305 funding to the amount necessary to make the relocated facility and its associated components operational.

5306 FEMA considers the proximity of the new site to utilities (water, sewer, and electric) and approves the least
5307 costly solution. Construction of an off-site support facility is only eligible if it is a utility that would serve the
5308 relocated facility exclusively.

5309 For land acquisition, if the facility was located on 10 acres of land at the time of the incident, and FEMA
5310 determines that 10 acres is not necessary for the operation of the facility, FEMA limits PA funding to the
5311 necessary amount of land.

5312 In situations where the applicant owns the facility, but not the land or the support facilities at the original
5313 location, the cost to purchase the land or build support facilities is ineligible.

5314 When FEMA requires relocation, FEMA does not provide future PA funding for repair or replacement of the
5315 original facility or for other facilities at the original site unless the facility facilitates an open space use.³⁴¹ For
5316 example, if the applicant converts the original site to a park, FEMA may provide PA funding in the future for
5317 park components, such as benches, tables, restrooms, or gravel roads.

5318 **Sale or Lease of Property at Original Site**

5319 The applicant may sell or lease the original facility or the land on which a relocated facility was originally
5320 located. The applicant must inform the purchaser of the property that FEMA will not provide future PA
5321 funding for repair or replacement of the original facility or for other facilities at the original site unless the
5322 facility facilitates an open space use.

³⁴⁰ 44 C.F.R. § 206.226(g)(2).

³⁴¹ 44 C.F.R. § 206.226(g)(3).

5323 The property which the facility is relocated to, and the relocated facility itself, are subject to the real property
5324 provisions of 2 C.F.R. part 200 including disposition and reporting requirements under 2 C.F.R. §§ 200.311
5325 and 329, respectively.

5326 For PA funds to be used for the original site, FEMA must complete an EHP review before an applicant can
5327 take a specific action, such as demolition.

5328 **Environmental and Historic Preservation Requirements**

5329 The applicant needs to make every effort to afford FEMA the opportunity to perform environmental and
5330 historic preservation (EHP) reviews prior to starting any work that has the potential to impact the
5331 environment or historic properties. This includes, but is not limited to, demolition work, site preparation, and
5332 ground disturbing activities. Permanent Work projects that restore a damaged facility to pre-disaster design
5333 are generally excluded from some EHP review; projects that involve changes in location, footprint, alignment,
5334 or size of a facility may not fall under these exclusions.

5335 **Floodplain Management and Wetland Protection**

5336 When providing PA funding for a project in or impacting a floodplain or wetland and where there is no
5337 practicable alternative,³⁴² the following flood risk minimization requirements apply at a minimum. FEMA
5338 may also require additional minimization measures if identified during the 8-step process. New construction
5339 is prohibited in a Coastal High Hazard Area and within regulatory floodways, along with substantial
5340 improvement, unless the structure has a functionally dependent use or facilitates open space use.³⁴³

5341 **NON-CRITICAL ACTIONS**

5342 PA's FFRMS³⁴⁴ standards require that, for non-critical actions, structures³⁴⁵ in the 100-year floodplain that
5343 are substantially damaged, substantially improved,³⁴⁶ or new construction³⁴⁷ must be elevated to the 500-
5344 year flood level or to the BFE plus 2 feet, whichever is lower. The BFE is based on the best available
5345 information in accordance with [FEMA Policy 104-008-2: Guidance on the Use of Available Flood Hazard](#)
5346 [Information](#).

³⁴² For permanent work (Category C - G) in areas designated as wetlands by the U.S. Army Corps of Engineers, applicants are responsible for securing and complying with any necessary permits under section 404 of the Clean Water Act, 33 U.S.C. § 1344, in addition to any other required permits. Failure to do so may result in denial or deobligation of funding.

³⁴³ 44 C.F.R. § 9.11(d)(1).

³⁴⁴ FFRMS standards which supersede those summarized here will change when FEMA-wide regulations are promulgated.

³⁴⁵ 44 CFR § 9.4. Structures means walled or roofed buildings, including mobile homes and gas or liquid storage tanks.

³⁴⁶ 44 CFR § 9.4. Substantial Improvement means any repair, reconstruction or other improvement of a structure or facility, which has been damaged in excess of, or the cost of which equals or exceeds, 50% of the market value of the structure or replacement cost of the facility (including all "public facilities" as defined in the Disaster Relief Act of 1974) (a) before the repair or improvement is started, or (b) if the structure or facility has been damaged and is proposed to be restored, before the damage occurred. If a facility is an essential link in a larger system, the percentage of damage will be based on the relative cost of repairing the damaged facility to the replacement cost of the portion of the system which is operationally dependent on the facility. The term "substantial improvement" does not include any alteration of a structure or facility listed on the National Register of Historic Places or a State Inventory of Historic Places.

³⁴⁷ New Construction means the construction of a new structure (including the placement of a mobile home) or facility or the replacement of a structure or facility which has been totally destroyed.

5347 If the structure is nonresidential, the applicant may opt to floodproof to the required level instead of
 5348 elevating.³⁴⁸

5349 For non-critical actions that are not structures that are substantial damage, substantial improvement, or new
 5350 construction, the minimum floodplain for consideration is the 1% annual chance floodplain.
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 5352

5353  Terminology related to flood hazards

5354 **Special Flood Hazard Area:** The land area subject to inundation during a flood having a 1% chance of
 5355 occurring in a given year (also referred to as the base flood or 100-year flood).

5356 **Base Flood:** The flood which has a one percent chance of being equaled or exceeded in any given year
 5357 (also known as a 1% annual chance floodplain or 100-year floodplain). This term is used in the
 5358 National Flood Insurance Program (NFIP) to indicate the minimum level of flooding to be used by a
 5359 community in its floodplain management regulations.

5360 **Base Flood Elevation:** The computed elevation to which floodwater is anticipated to rise during the
 5361 base flood.

5362 **Critical Action:** An action for which even a slight chance of flooding is too great. The minimum
 5363 floodplain of concern for critical actions is the 0.2% annual chance floodplain (also known as the 500-
 5364 year floodplain). Critical actions include, but are not limited to, those which create or extend the useful
 5365 life of structures or facilities. The term “critical action” should not be confused with a PNP “critical
 5366 service” or “critical facility.”

5367 **Coastal High Hazard Area:** The area subject to high velocity waters including, but not limited to,
 5368 hurricane waves or tsunamis. On a Flood Insurance Rate Map (FIRM), this appears as zone V1-30, VE
 5369 or V.

5370 **Floodway:** The portion of the floodplain, which is effective in carrying flow, within which this carrying
 5371 capacity must be preserved and where the flood hazard is usually highest, i.e., where water depths
 5372 and velocities are the greatest. It is that area which provides for the discharge of the base flood so the
 5373 cumulative increase in water surface elevation is no more than one foot.

5374 **CRITICAL ACTIONS**

5375 If an action is not specified as a critical action in 44 C.F.R. § 9.4, FEMA utilizes the U.S. Water Resource
 5376 Council Floodplain Management Guidelines³⁴⁹ to determine whether a proposed action is deemed a critical
 5377 action by considering the following:

- 5378 ▪ The potential for additional impacts if the proposed project is flooded in a future incident (e.g., the facility
 5379 contains volatile or toxic materials);
- 5380 ▪ The ability for occupants of buildings such as hospitals, schools, and nursing homes to evacuate in time
 5381 to avoid loss of life and injury given the flood warning lead-time available in a future incident; and
- 5382 ▪ The potential for emergency services and utilities to become inoperative, or essential and irreplaceable
 5383 records to be lost if a facility is flooded in a future incident.

³⁴⁸ 44 C.F.R. § 9.11(d)(3)(iii).

³⁴⁹ www.energy.gov/nepa/downloads/floodplain-management-guidelines-implementing-eo-11988-water-resources-council-1978.

5384 If the structure contains a critical action³⁵⁰ and is in the 1% annual chance floodplain (100-year) or 0.2%
 5385 annual chance floodplain (500-year) and was substantially damaged³⁵¹ or will undergo new construction or
 5386 substantial improvements, the applicant must, at a minimum, elevate the lowest floor (including the
 5387 basement) to or above the 0.2% annual chance flood elevation or to the 1% annual chance flood elevation
 5388 plus an additional 3 feet, whichever requirement is higher.³⁵²

5389 If the structure in the 1% annual chance or 0.2% annual chance floodplain is nonresidential, the applicant
 5390 may opt to floodproof to the required level instead of elevating.³⁵³

5391 The minimum floodplain of concern for critical actions that are not structures that are substantially
 5392 damaged, substantial improvement, or new construction is the 0.2% annual chance floodplain (also referred
 5393 to as the critical action floodplain).

5394 COASTAL HIGH HAZARD AREAS

5395 If the structure was Substantially Damaged, is Substantially Improved, or undergoes new construction in a
 5396 Coastal High Hazard Area, the applicant must elevate or floodproof the facility in accordance with the FFRMS
 5397 elevation requirements summarized above for flood elevation for critical actions (including wave height). In
 5398 Coastal High Hazard Zones, structures must be elevated on open works (walls columns, piers, piles, etc.)
 5399 and anchored properly.³⁵⁴ Additional guidance on actions designated as critical and as non-critical can be
 5400 found in the “Additional Information” section “Appendix A” of the FFRMS policy, [FEMA Policy 104-22-0003:](#)
 5401 [Partial Implementation of the Federal Flood Risk Management Standard for Public Assistance](#), which
 5402 clarifies [Consensus-Based Codes at ASCE 24-14](#) and their interaction with critical and non-critical actions.

5403 REQUIREMENT FOR COMMUNITIES PARTICIPATING IN THE NATIONAL FLOOD INSURANCE 5404 PROGRAM.

5405 A community that participates in the National Flood Insurance Program (NFIP) must adopt and enforce a
 5406 floodplain management ordinance that meets or exceeds the minimum NFIP requirements.³⁵⁵ Such an
 5407 ordinance must contain construction requirements for new construction or Substantial Improvement of
 5408 buildings located in a SFHA. In addition to other requirements, the ordinance must require that new or
 5409 Substantially Improved buildings be elevated so that the lowest floor is at or above the BFE or floodproofed

³⁵⁰ 44 C.F.R. § 9.4. Critical Action means an action for which even a slight chance of flooding is too great. The minimum floodplain of concern for critical actions is the 0.2% annual chance floodplain, i.e., critical action floodplain. Critical actions include, but are not limited to, those which create or extend the useful life of structures or facilities: (a) Such as those which produce, use or store highly volatile, flammable, explosive, toxic or water-reactive materials; (b) Such as hospitals and nursing homes, and housing for the elderly, which are likely to contain occupants who may not be sufficiently mobile to avoid the loss of life or injury during flood and storm events; (c) Such as emergency operation centers, or data storage centers which contain records or services that may become lost or inoperative during flood and storm events; and (d) Such as generating plants, and other principal points of utility lines.

³⁵¹ 44 C.F.R. § 59.1 Substantial damage (SD) means 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. Work on structures that are determined to be substantially damaged is considered to be substantial improvement, regardless of the actual repair work performed.

³⁵² 44 C.F.R. § 9.11(d)(3)(i) and (ii).

³⁵³ 44 C.F.R. § 9.11(d)(3)(iii).

³⁵⁴ 44 C.F.R. § 9.11(d)(2) and (7).

³⁵⁵ 44 C.F.R. § 60.3.

5410 to a level equal to or above the BFE (some communities have more restrictive ordinances that require
 5411 elevation or floodproofing to greater levels.) The requirements that a community adopts in order to
 5412 participate in the NFIP may be different than FEMA’s requirements for facilities located in floodplains. PA will
 5413 fund the stricter requirement.

5414 Building upgrades required for compliance with the floodplain ordinance are eligible provided the ordinance
 5415 meets the eligibility criteria for codes and standards and the Substantial Improvements are disaster-related
 5416 repairs. If the cost to repair a facility in accordance with the floodplain ordinance is greater than the cost to
 5417 replace the facility in accordance with the ordinance, the eligible cost is capped at the replacement cost,
 5418 except for facilities eligible for or on the National Register of Historic Properties.³⁵⁶

5419 Facility Located in or Impacting a Floodplain

5420 FEMA actions, including funding of permanent restorations, which have the potential to affect floodplains or
 5421 wetlands, or are subject to potential harm by location in floodplains, must comply with the regulations set
 5422 forth in 44 C.F.R. Part 9. According to the regulations, when FEMA provides PA funding for restoration of a
 5423 facility located in or impacting a floodplain, FEMA must determine if an action it is about to take is critical or
 5424 non-critical and must require the implementation of mitigative actions in accordance with applicable
 5425 minimization standards. FEMA is required to ensure minimization of harm to or within the floodplain and
 5426 may create more stringent requirements than the current regulatory standards for critical facilities or non-
 5427 critical facilities.

5428 8-Step Decision-making Process

5429 FEMA is responsible for determining whether a PA project will have an adverse impact on the 100-year
 5430 floodplain (500-year floodplain for critical actions). To make this determination, FEMA initiates the 8-step
 5431 decision-making process defined in 44 C.F.R. § 9.6. As part of this process FEMA evaluates the impacts the
 5432 project may have on the floodplain and practicable alternatives for environmental, social, economic,
 5433 technical, and legal factors, as defined in 44 C.F.R. § 9.9. Some alternatives may not be eligible for PA
 5434 funding. For example, if the 8-step review process identifies relocation of a facility as a practicable
 5435 alternative to repairing it in the SFHA, but the facility is ineligible for relocation as described in Chapter 8:
 5436 *Relocation*, then costs associated with relocating the facility are ineligible for PA funding. FEMA considers
 5437 whether each alternative identified is eligible for PA funding and, if not, whether the applicant has funding
 5438 available to proceed with the alternative without PA funding.

5439 Projects in the 100-year floodplain (500-year floodplain for critical actions) are only eligible if, as a result of
 5440 completing the 8-step process, FEMA is unable to identify a practicable alternative to restoring the facility
 5441 within the floodplain, such as cost-effective relocation outside of the 100-year floodplain or when relocation
 5442 would interfere with the facility’s primary purpose. The 8-step process is not required for projects where the
 5443 repair cost is less than \$5,000.³⁵⁷

³⁵⁶ 44 CFR Part 206.226(f)(3)

³⁵⁷ 44 C.F.R. § 9.5(c)(13).

5444 Hydrologic and Hydraulic Studies

5445 Hydrologic and hydraulic (H&H) studies can help identify whether facilities located in a floodplain are likely to
5446 have an adverse impact upstream or downstream. Generally, an H&H study is necessary when:

- 5447 ▪ The facility is in a special flood hazard area;
- 5448 ▪ There is a potential adverse impact to the floodplain;
- 5449 ▪ There is a potential adverse impact to a federally listed threatened or endangered species, critical
5450 habitat, or essential fish habitat; or
- 5451 ▪ It is required to demonstrate compliance with the Clean Water Act.

5452 PA, EHP, and PA hazard mitigation staff coordinate to determine whether an H&H study is needed. If so,
5453 FEMA requests the applicant retain a licensed civil, environmental, or hydrologic engineer to prepare the
5454 H&H study. FEMA staff can provide guidance on the general contents for such studies. H&H studies are
5455 eligible as part of the overall project.

5456 The study identifies upstream and downstream impacts (such as stage, velocity, duration) of alterations to
5457 the floodplain by the proposed work. H&H studies are often requested when there will be new construction
5458 or alterations to bridges or culverts. These alterations include changes to the length, diameter, number of
5459 culverts, or modifications to exits or entrances (such as head walls, wing walls, rounding, grouted riprap).

5460 H&H studies are not required:

- 5461 ▪ If water at a stormwater drainage or conveyance structure does not flow regularly or flows only
5462 seasonally; or
- 5463 ▪ If the project will return the facility back to its exact pre-disaster condition (such as length, diameter,
5464 material, number of culverts, exit and entrance conditions), and stream morphology has not significantly
5465 changed.

5466 Facility Located in a Special Flood Hazard Area

5467 SFHAs³⁵⁸ are areas that are subject to inundation during a 1% annual chance flood (also known as the 100-
5468 year floodplain).

5469 NATIONAL FLOOD INSURANCE PROGRAM

5470 For a National Flood Insurance Program (NFIP)-insurable facility located in an SFHA, FEMA must reduce PA
5471 funding when the facility is:

- 5472 ▪ Located in an area that FEMA has identified as an SFHA for more than 1 year;
- 5473 ▪ Damaged by flooding; and
- 5474 ▪ Uninsured for flood loss.

³⁵⁸ 44 C.F.R. § 206.251(e). Special flood hazard areas have special flood, mudslide, and/or flood-related erosion hazards, and shown on a Flood Hazard Boundary Map (FHBM) or the Flood Insurance Rate Map (FIRM) issued by FEMA as Zone A, AO, A1-30, AE, A99, AH, VO, V1-30, VE, V, M, or E. "Special flood hazard area" is synonymous with "special hazard area," as defined in 44 C.F.R. part 59.

5475 If the applicant believes that its property is incorrectly identified on a Flood Insurance Rate Map (FIRM) as
5476 being located within the SFHA, it may request a Letter of Map Amendment or Letter of Map Revision from
5477 FEMA within 6 months of the disaster declaration. If the applicant's request is approved and FEMA
5478 determines that the property is not located in an SFHA, FEMA may reinstate PA funding. Costs incurred in
5479 pursuit of a Letter of Map Amendment or Letter of Map Revision are ineligible for PA funding.

5480 Pursuant to Stafford Act section 406(d)(2), if the applicant does not have flood insurance for the facility or
5481 carries inadequate flood insurance for the insurable facility, FEMA reduces eligible project costs by the lesser
5482 of:

- 5483 ▪ The maximum amount of insurance proceeds that could have been obtained from an NFIP standard
5484 flood insurance policy for the building and its contents;³⁵⁹ or
- 5485 ▪ The value of the building and its contents at the time of the incident.

5486 FEMA does not apply this reduction to PNP facilities in communities that do not participate in the NFIP.³⁶⁰
5487 However, for FEMA to provide PA funding for the PNP facility, the community it is located in must agree to
5488 participate in the NFIP within 6 months of the declaration and the PNP must purchase the required flood
5489 insurance; or the PNP must obtain and maintain flood insurance from another source.³⁶¹

5490 Requirement to Obtain and Maintain Insurance

5491 Applicants that receive PA funding for Permanent Work to replace, repair, reconstruct, or construct a facility
5492 must obtain and maintain insurance to protect the facility against future loss.³⁶² Applicants must comply
5493 with this requirement as a condition of FEMA assistance. This requirement applies to insurable facilities or
5494 property (buildings, contents, equipment, and vehicles), including those funded as an Alternate, Improved, or
5495 Alternative Procedures Project.³⁶³ [FP 206-086-1 Public Assistance Policy on Insurance](#), describes these
5496 requirements in detail.³⁶⁴

5497 The applicant must obtain and maintain insurance on damaged facilities with the types and extent of
5498 insurance reasonably available, adequate, and necessary to protect against future loss to the property. The
5499 recipient must provide assurance that the required insurance coverage will be maintained for the
5500 anticipated life of the restorative work or the insured facility, whichever is shorter.³⁶⁵ The type of insurance
5501 refers to the hazard(s) that caused the damage and extent refers to the amount of insurance required, which
5502 is calculated based on the eligible costs prior to any reductions (including the non-federal share reduction).

5503 The requirements of Stafford Act Section 311 are waived when eligible costs for an insurable facility do not
5504 exceed \$5,000.³⁶⁶

³⁵⁹ 44 C.F.R. § 206.252(a).

³⁶⁰ 44 C.F.R. § 206.252(b).

³⁶¹ Ibid.

³⁶² Stafford Act § 311, 42 U.S.C. § 5154; 44 C.F.R. § 206 Subpart I; 2 C.F.R. 200.310.

³⁶³ 44 C.F.R. § 206.203(d).

³⁶⁴ Public Assistance Policy on Insurance

³⁶⁵ Stafford Act § 311, 42 U.S.C. § 5154; 44 C.F.R. § 206.253(e).

³⁶⁶ 44 C.F.R. § 206.253(d).

5505 The applicant may request that FEMA modify the insurance requirement when:

- 5506 ▪ The required insurance is not reasonably available;
- 5507 ▪ The required insurance is not necessary to protect against future loss to the property.

5508 Additionally, FEMA does not require greater types and amounts of insurance than are certified as reasonably
5509 available, adequate, or necessary³⁶⁷ by the appropriate State or Territorial Insurance Commissioner.³⁶⁸ The
5510 State or Territorial Insurance Commissioner cannot waive federal insurance requirements but may certify the
5511 types and extent of insurance reasonable to protect against future loss to an insurable facility.³⁶⁹

5512 The applicant may comply with the insurance requirement for both flood and non-flood hazards with
5513 coverage available through commercial property insurance, which may include blanket insurance policies,
5514 standard flood insurance policies, insurance pools, or a combination of these sources.³⁷⁰ In some cases,
5515 with FEMA approval, the applicant may comply with the insurance requirement using a self-insurance
5516 plan.³⁷¹

5517 **Failure to Obtain and Maintain Insurance**

5518 If the applicant does not comply with the requirement to obtain and maintain insurance, FEMA will deny or
5519 deobligate PA funds related to the noncompliance from the current disaster. Additionally, the facilities for
5520 which the applicant failed to comply are ineligible for future PA funding.

5521 If an applicant cannot insure a facility prior to grant approval (for example, if a building is being
5522 reconstructed), the applicant may provide a Letter of Commitment (LOC) stating that they agree to the
5523 insurance requirement and will obtain the types and extent of insurance required, followed at a later date by
5524 proof of insurance once it is obtained. If a facility is damaged in a subsequent disaster prior to work being
5525 completed from a previous disaster, the LOC for the O&M requirement allows the first disaster projects to
5526 remain open and allows the facility damaged in a subsequent disaster to be eligible for funding and proceed
5527 with the project formulation and insurance review process.

³⁶⁷ Insurance may not be required for certain types of facilities including roads and underground facilities.

³⁶⁸ 44 C.F.R. § 206.253(c).

³⁶⁹ 44 C.F.R. §§ 206.252(d) and 206.253(c).

³⁷⁰ 44 C.F.R. § 206.253(b)(2).

³⁷¹ Stafford Act § 311(c), 42 U.S.C. § 5154(c); 44 C.F.R. Part 75.

5528 **Building Code and Floodplain Management Administration** 5529 **and Enforcement (Category I)**

5530 After a disaster, recovering localities face an increase of administration and enforcement work to ensure
5531 that repair and replacement of damaged facilities and infrastructure meet adopted regulatory requirements,
5532 such as those set forth in floodplain management regulations and building codes. Additional staff time and
5533 resources are spent reviewing permits, inspecting repair work, and enforcing adopted regulations.

5534 The Disaster Recovery Reform Act (DRRA) of 2018 amended Sections 402 and 406 of the Stafford Act to
5535 authorize FEMA to provide communities resources to effectively administer and enforce building codes and
5536 floodplain management ordinances for a period of no longer than 180 days after the date of the major
5537 disaster declaration. FEMA will not extend assistance beyond 180 days for these activities.

5538 All communities that participate in the National Flood Insurance Program must adopt and enforce
5539 regulations that meet or exceed the minimum standards for participation. These standards apply in the
5540 community's regulated floodplain. All development in this area must be reviewed for compliance and
5541 approved by the local floodplain administrator. These regulations can be found in a variety of places,
5542 including stand-alone ordinances, zoning codes, sanitary and sewer regulations, and building codes.

5543 In communities that have adopted building codes, the codes apply to the construction, repair, and
5544 rehabilitation of all structures in the community, not just those within the regulated floodplain.

5545 In both cases, local officials review development, construction, and repair proposals for completeness and
5546 compliance and issue permits. It is the local official's responsibility to ensure that the developments are
5547 compliant through inspections and the receipt of final compliance documentation. Eligible work must be
5548 performed within a period of no longer than 180 days after the date of the major disaster declaration.

5549 The principles of the DRRA Section 1206 amendments are:

- 5550 1. Increase the overall speed of recovery by providing assistance to conduct building inspections, review
5551 disaster-related development in the floodplain, review applications for permits, and issue permits to
5552 adequately administer and enforce adopted building codes and floodplain ordinances.
- 5553 2. Enhance compliance with state and local building codes and floodplain management ordinances by
5554 providing state, local, tribal, and territorial governments additional resources to carry out required
5555 activities after a disaster.

5556 Communities that are suspended from or have been sanctioned for not participating in the National Flood
5557 Insurance Program (NFIP) are ineligible for Category I activities.

5558 **General Requirements**

5559 To be eligible, building code and floodplain management administration and enforcement activities must be:

- 5560 ▪ Conducted in the designated areas as identified in the major disaster declaration;

- 5561 ▪ Within the applicant’s jurisdiction;³⁷² and
 - 5562 ▪ Related to the repair, replacement, retrofit, or relocation of disaster damaged facilities. This may include
 - 5563 public, private, and residential structures. The facilities can be public, private, and residential structures.
- 5564 Activities to administer and enforce building code and floodplain management ordinances are eligible
- 5565 regardless of whether the building code or floodplain management ordinance in question meets PA’s
- 5566 regulatory eligibility criteria for facility restoration.



Example: Building Code Administration

5568 After a disaster is declared, a community decides to update its building code to require a four-foot

5569 freeboard for all buildings in the special flood hazard area. Work associated with administering and

5570 enforcing the four-foot freeboard for disaster-damaged buildings in the community is eligible under this

5571 policy. However, PA would not fund the physical repairs to a school building to meet the new four-foot

5572 freeboard requirement since the code was adopted after the date of the disaster declaration and

5573 therefore ineligible according to PA regulation and policy (FEMA would fund the repair work to meet the

5574 minimum code requirements as described in Chapter 8 of the PAPPG and 44 CFR Part 9.11).

5575 Work that is eligible under Category I cannot:

- 5576 ▪ Be used as the basis for a request for an Alternate Project³⁷³ or for participation in the PA Alternative
- 5577 Procedures for Permanent Work; or
- 5578 ▪ Have an associated Hazard Mitigation Proposal.

Eligible Work

5580 The procedures described below are eligible under Category I.

PRELIMINARY BUILDINGS SAFETY SCREENING AND BUILDING SAFETY INSPECTIONS

5583 The process of preliminary screening, which helps to rapidly

5584 identify buildings that are likely to have sustained damage that

5585 may have impacted the safety of a building, as well as a more

5586 thorough Building Safety Evaluation are both

5587 eligible, either under Category I or under Category B

5588 (see Chapter 7: *Safety Inspections*). Preliminary

5589 screening is typically performed by building department officials immediately following an incident to

5590 determine if a building or groups of buildings may need further evaluation for hazardous conditions.

5591 Following the preliminary screening, the building department officials, or those that have been deputized to

5592 do so, may conduct Building Safety Inspections to determine whether a building has sustained either

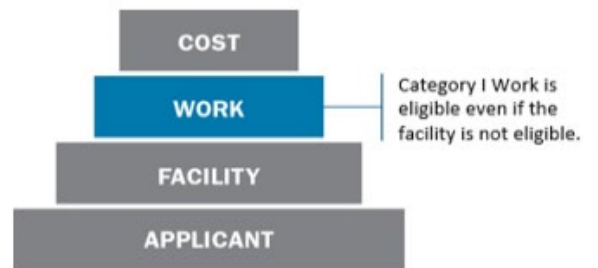


Figure 17. Eligibility for Category I

³⁷² 44 CFR § 206.223.

³⁷³ Stafford Act Section 406(c), 42 U.S.C. § 5172, and 44 C.F.R. § 206.203(d)(2),

5593 structural or nonstructural damage that results in a hazardous condition. For a more detailed description,
 5594 please [see Post-disaster Building Safety Evaluation Guidance \(FEMA P-2055, 2019\)](#).

5595 **SUBSTANTIAL DAMAGE PROCEDURES**

5596 Rebuilding after a disaster provides an opportunity to make buildings stronger and safer as they are
 5597 repaired. Substantial Damage (SD) is damage sustained on a structure in the Special Flood Hazard Area
 5598 (SFHA)—or regulated floodplain—for which the total cost of repairs is 50% or more of the structure’s market
 5599 value before the disaster occurred, regardless of the cause of damage (i.e., flood, fire, wind, etc.). When a
 5600 structure has sustained SD, any repairs to the structure are considered Substantial Improvements which
 5601 trigger compliance with state and local regulations.

5602 Local officials conduct SD assessments in the SFHA to all damaged structures. This includes field survey
 5603 inspections, data collection, and documentation of impacts. Once data is collected, SD determinations must
 5604 be made to assess whether the damage to structures meets or exceeds 50% of a structure’s market value.
 5605 The results of SD determinations must be stored either digitally or in paper files in the community. Finally,
 5606 the results of these determinations must be communicated to property owners. Table 27 provides an
 5607 overview and examples of eligible activities. Activities not specifically listed here will be evaluated on a case-
 5608 by-case basis for eligibility.

5609 **Table 27. Eligible Activities: Substantial Damage**

Description	Eligible Activities
Substantial Damage	<ul style="list-style-type: none"> ▪ Contract for services (e.g., contract planning, planning, initiation, solicitation, evaluation and award). ▪ Hire, train, supervise, certify and license staff, as required to conduct eligible activities. ▪ Conduct initial field surveys to determine extent of damage. ▪ Establish damage trends to identify areas to focus building-specific assessment efforts. ▪ Prepare cost information on repairs and pre-disaster market value estimates for substantial damage estimates. ▪ Collect field data for damage assessments. ▪ Enter Impact List information into the Substantial Damage Estimator or comparable data collection software. ▪ Track cumulative substantial damage and repetitive loss for communities, if required. ▪ Conduct inventory of structures. ▪ Inform property owners of damage determination and provide compliance requirements. ▪ Determine whether proposed improvements are “substantial improvements” and trigger requirements for compliance, including a building permit. ▪ Determine whether damaged structures have been designated as historic or may be eligible for such designation.

5610 **PERMITTING PROCEDURES**

5611 Permitting is a critical part of a community’s building code and floodplain management administration
 5612 programs. A well-functioning permitting process post-disaster is necessary to capture all development either
 5613 in the floodplain (FPM administration) or throughout the community (building code administration). The
 5614 following outlines standard permitting procedures.

5615 A developer, designer, owner or contractor submits an application for a permit to repair or remodel a
 5616 building, change a building’s use, or demolish an existing building. Local building code officials/floodplain
 5617 administrators/inspectors or their designees process the application and review the plans (including location
 5618 on flood map) for completeness and compliance with local regulations prior to issuing any permits. Several
 5619 revisions to the plan may be required before a permit is processed and issued. A permit is issued per the
 5620 community’s adopted codes and based on the approved set of plans.

5621 Table 28 provides an overview and examples of eligible activities. Activities not specifically listed here will be
 5622 evaluated on a case-by-case basis for eligibility.

5623 **Table 28. Eligible Activities: Permitting**

Description	Eligible Activities
Permitting	<ul style="list-style-type: none"> ▪ Hire, train, supervise, certify, and license staff, as required to conduct eligible activities. ▪ Contract for services (e.g., contract planning, planning, initiation, solicitation, evaluation and award). ▪ Provide training and information to staff, contractors, and the public on unique considerations for repair of disaster-damaged historic buildings. ▪ Provide training and outreach to the public on floodplain management, building code, and building permit requirements applicable to the repair, replacement or refit of disaster-damaged buildings. ▪ Provide information on flood hazards, floodplain map data, advisory flood data and compliance to residents and property owners. ▪ Establish construction plan review and inspection processes, procedures and instructions for permit holders. ▪ Collect fees. ▪ Review and process applications for floodplain management and building permits; certificates of occupancy; certificates of compliance; and the associated plans, specifications, and construction documents for compliance with federal, state, and municipal building, housing, and life-safety codes and standards applicable to disaster-related repair, replacement, or retrofit. ▪ Review, adjudicate, and resolve Substantial Damage Determination appeals. ▪ Coordinate building code administration and enforcement with floodplain management ordinance administration and enforcement, as appropriate. ▪ Determine whether proposed disaster-related development activities are in areas regulated by the community’s floodplain management ordinance or building code.

Description	Eligible Activities
	<ul style="list-style-type: none"> ▪ Process permits for disaster-related development in the floodplain associated with the declared disaster. ▪ Process requests for building code and floodplain management variances. ▪ Perform inspections to ensure compliance with repair and substantial damage construction requirements. ▪ Monitor impacted areas for unpermitted construction activities. ▪ Inspect structures under construction for compliance with approved plans, specifications, and all requirements of applicable codes, laws, and ordinances. ▪ Inspect all disaster-related development in the applicable jurisdiction. ▪ Process, maintain, and track temporary occupancy permits and inspect temporary occupancy buildings. ▪ Review and issue elevation certificates.

5624 **ENFORCEMENT PROCEDURES**

5625 Local officials are responsible for ensuring that all development in the community’s regulated floodplain
 5626 (floodplain management) or throughout the community (building codes) are built according to approved
 5627 plans. If it is discovered that development activities occur without permits or contrary to the approved plans,
 5628 local officials must enforce their regulations.

5629 This may be accomplished in a variety of ways, including voluntary compliance, formal notifications and
 5630 issuance of violations, issuance of stop-work orders, and other legal recourse. If necessary, communities
 5631 may have to process requests for floodplain management variances. Communities may also be required to
 5632 manage substantial damage determination appeals resulting from property owners’ disagreement on the
 5633 basis of a variety of potential issues.

5634 **Table 29. Eligible Activities: Enforcement**

Description	Eligible Activities
Enforcement	<ul style="list-style-type: none"> ▪ Hire, train, supervise, certify, and license staff, as required to conduct eligible activities. ▪ Contract for services (e.g., contract planning, planning, initiation, solicitation, evaluation and award). ▪ Provide training and information to staff, contractors, and the public on unique considerations for repair of disaster-damaged historic buildings. ▪ Conduct inspections to ensure the removal of temporary fill and related materials used in flood fighting. ▪ Identify and carry out corrective action in cases where construction, design, and occupancy do not comply with codes and/or ordinances. ▪ Conduct and process condemnation determinations. ▪ Investigate complaints and assist in preparation of materials for abating violations of building codes and related ordinances. ▪ Take corrective action necessary to ensure compliance with federal, state, and local floodplain regulations.

5635 **Ineligible Work**

5636 Funding is limited to work that is directly related or a result of the declared disaster. The following are
 5637 ineligible:

- 5638 ▪ Activities associated with non-disaster damaged structures or non-disaster-related development.
- 5639 ▪ Activities to update a community’s laws, rules, procedures, or requirements. Examples include:
 - 5640 ○ Adopting new or updating current building codes or floodplain management ordinances;
 - 5641 ○ Adopting or updating zoning laws and requirements; and
 - 5642 ○ Developing new land use plans or requirements.

5643 For Category I activities only overtime costs are eligible for budgeted labor. Straight-time and overtime costs
 5644 are eligible for unbudgeted labor.

5645 Revenue collected by the applicant (including fees and fines) for the performance of eligible work funded is
 5646 considered program income. The project is reduced accordingly during closeout. If the applicant waives fees
 5647 or fines following the disaster, FEMA reduces the eligible costs by the amount that the fees or fines would
 5648 have been collected.

5649

Chapter 9: Scoping, Costing, and Final Reviews

Damage and impact information is the foundation of the project because the scope of work (SOW) and cost eligibility are tied to the eligible damage. FEMA and the Applicant should work together to reach an agreement on the disaster-related damage description and dimensions, emergency protective measures, and debris impacts before proceeding with SOW development. During the Scoping and Costing phase, FEMA reviews applicant-provided information to develop or validate the SOW and cost estimate for each project, develop PA hazard mitigation proposals, and ensure compliance with applicable requirements. For additional information on Phase III - Scoping and Costing procedures and Phase IV - Final Reviews, refer to the Program Delivery Guide.

Scope of Work Development

The scope of work reflects the damage description and dimensions (DDD). The scope of work necessary to repair the damage or address the impacts must be completely described and correspond directly to the cause of damage. Descriptions of repair work should be specific to elements of damage and defined in quantifiable (e.g., length, width, depth, and capacity) and descriptive terminology (e.g., brick, wood, asphalt, timber deck bridge). To develop the scope of work, the applicant should also provide the following for each site (not an all-inclusive list):

- Percentage of work completed;
- Who performed, or will perform, the work (e.g., force account, contract, mutual aid);
- Proposed or completed, scope of work, including PA hazard mitigation measures and identified consensus-based codes, specifications and standards requirements; and
- Technical studies, reports, and assessments.

Cost Development

While FEMA or the recipient may assist the applicant with preparing project applications based on actual or estimated costs, the applicant is ultimately responsible for developing and documenting all costs.

Project Thresholds

FEMA establishes a minimum project threshold for each federal fiscal year. If a project application totals less than the minimum threshold, the project is ineligible for FEMA funding.³⁷⁴ The project application total includes hazard mitigation costs and accounts for insurance proceeds and other reductions to avoid duplication of benefits. The threshold applies to incidents declared within that fiscal year and is based on the Consumer Price Index.³⁷⁵

The minimum threshold applies to each project application. not to each damage line item. FEMA does not combine work among several sites into one project application for the *sole* purpose of reaching the minimum

³⁷⁴ 44 C.F.R. § 206.202(d)(2).

³⁷⁵ The project threshold amount is available at: Per Capita Impact and Project Thresholds.

5682 threshold. Additionally, FEMA does not process project applications under the minimum threshold unless the
 5683 applicant intends to appeal disputed scope of work or costs that would increase the project amount to *at*
 5684 *least* the minimum threshold. The minimum threshold does not apply to Donated Resources or Management
 5685 Costs; however, these projects are only eligible when the donated resources or management costs are
 5686 related to an eligible project that meets the minimum threshold.

5687 FEMA also establishes a dollar threshold each federal fiscal year for the implementation of Simplified
 5688 Procedures under Section 422 of the Stafford Act. This threshold defines a project as large or small.³⁷⁶

- 5689 ▪ A Large Project has costs equal to or greater than the threshold.
- 5690 ▪ A Small Project has costs below the threshold.³⁷⁷

5691 FEMA administers funding for Large and Small Projects³⁷⁸ differently. For Large Projects that are not capped,
 5692 FEMA adjusts any estimated costs to the actual incurred amount so that the final approved funding is based
 5693 on actual costs.³⁷⁹ For Small Projects, FEMA does not adjust estimated costs to the actual incurred
 5694 amount.³⁸⁰ FEMA determines whether a project is large or small based on the final approved amount of
 5695 eligible costs after any cost adjustments, including insurance reductions.

5696 Expedited Projects for Emergency Work

5697 FEMA may provide expedited funding for Emergency Work Projects (Category A or B) that meet or exceed the
 5698 Large Project threshold. FEMA funds Expedited Projects at 50 percent of the federal share of the estimated
 5699 project cost. Requests for Expedited Projects must be submitted to FEMA within 60 days of the applicant's
 5700 Recovery Scoping Meeting. To support its request, the applicant must provide enough information for FEMA
 5701 to validate that the work and costs are eligible. FEMA will work to obligate funding within 90 days of receipt
 5702 of the request.

5703 FEMA's obligation of an expedited project is not an authorization for the recipient to advance funds without
 5704 the documentation to support the drawn funds. Expedited advance payments are limited to the "minimum
 5705 amounts needed" and for payments to be timed based on the "actual, immediate cash requirements" to
 5706 perform the eligible work.

5707 For the development and obligation of an Expedited Project, the applicant needs to provide the following,
 5708 broken down by the applicant's monthly (or bi-weekly) operational periods:

- 5709 ▪ A detailed description of the work and documentation to substantiate that the work is eligible, including:
 - 5710 ○ Description of immediate threat;
 - 5711 ○ Detailed description of work activities performed or plans to perform;

³⁷⁶ The project threshold amount is available at: Per Capita Impact and Project Thresholds.

³⁷⁷ Stafford Act § 422, 42 U.S.C. § 5189; 44 C.F.R. § 206.203(c).

³⁷⁸ 44 C.F.R. § 206.203(c).

³⁷⁹ 44 C.F.R. § 206.205(b); DHS Assistance Listing 97.036 Disaster Grants- Public Assistance (Presidentially declared disasters), part 2(b); Project Thresholds.

³⁸⁰ 44 C.F.R. § 206.205(a); Stafford Act § 422, 42 U.S.C. § 5121.

-
- 5712 ○ Work locations; and
 - 5713 ○ For debris: estimated quantities by type of debris.
 - 5714 ■ The total estimated cost must be reasonable, supported by documentation and include the following:
 - 5715 ○ Itemized cost estimate with basis for estimate (e.g., actual costs, historical unit costs, average costs
 - 5716 for similar work in the area, or contractor or vendor quotes including pre-qualified contracts.
 - 5717 ○ Insurance Policies.
 - 5718 ○ Labor including mutual aid:
 - 5719 – Budgeted employees: Total regular and overtime hours with average rate for each type of
 - 5720 employee.
 - 5721 – Unbudgeted employees: Total regular and overtime hours with average rate for each type of
 - 5722 employee.
 - 5723 – Mutual Aid: Total regular and overtime hours with average rate for each type of employee (e.g.,
 - 5724 mutual aid, National Guard, or prison labor).
 - 5725 – Mutual Aid Agreement, Memorandum of Understanding or other written agreement.
 - 5726 ○ Equipment:
 - 5727 – Applicants own equipment: Equipment type, usage, and rate for each type of equipment.
 - 5728 – Purchased equipment: Equipment type and cost.
 - 5729 – Rented or leased equipment: Equipment type and rate for each type of equipment.
 - 5730 ○ Supplies
 - 5731 – Purchased: Type, quantity, and cost for each type.
 - 5732 – From Stock: Type, quantity, and cost for each type
 - 5733 ○ For contract work:
 - 5734 – Documentation to support the estimate (e.g., Request for proposal(s), bid documents, or
 - 5735 contracts including pre-qualified contracts).
 - 5736 – Debris monitoring information, if applicable.³⁸¹
 - 5737 ○ Other Emergency Work costs:
 - 5738 – Travel: Number of individuals, purpose, duration, and average rate.
 - 5739 – Meals: Number of individuals, purpose, duration, and average rate.
 - 5740 – Miscellaneous: Quantity, purpose, duration, and average rate.
 - 5741 If Category A or B has an increased federal cost share for a limited timeframe, the applicant needs to
 - 5742 separate work anticipated to be completed within the increased cost share timeframe from that to be
 - 5743 completed after the increased cost share period (See Chapter 6: *Increased Federal Cost Share for a Limited*
 - 5744 *Timeframe*).

³⁸¹ FEMA Debris Monitoring Guide (March 2021)

5745 FEMA estimates the cost of the work based on cost information provided by the applicant. If the applicant
 5746 does not provide sufficient cost information, FEMA may use average historical pricing. For contracted work,
 5747 FEMA uses the unit cost from the contract if it determines the costs are reasonable; however, this is only for
 5748 the purpose of expediting funding based on an estimate. FEMA reviews the applicant's procurement and
 5749 contracting for compliance and addresses any noncompliance prior to or at final reconciliation and closeout
 5750 of the project.

5751 FEMA provides the federal cost share for the remaining 50 percent of the project cost once the applicant
 5752 provides all documentation required to support the estimated project cost for a non-expedited Project.



5753 Work Completion Date

5754 The **Work Completion Date** is the date the applicant completes all work associated with the approved
 5755 SOW including meeting all compliance requirements. It does not include invoice payments, warranty
 5756 periods, or grant management activities (e.g., compiling and submitting documentation, financial
 5757 reconciliation, requesting payment).

5758 Costs for Projects with All Work Completed

5759 For projects with all work complete, FEMA works with the applicant to:

- 5760 ▪ Verify and collect programmatic, insurance, and hazard mitigation information;
- 5761 ▪ Ensure Environmental and Historic Preservation (EHP) grant conditions are met,
- 5762 ▪ Validate underserved communities are not negatively impacted by the work completed;
- 5763 ▪ Verify information and documentation requirements; and
- 5764 ▪ Address contextual information needed for supporting the applicant's claim for completed work.

5765 When work for a large project is 100% complete, FEMA will provide funding based on actual costs. FEMA
 5766 reviews the documentation submitted by the applicant and will make its eligibility determination based on
 5767 the documentation received. FEMA will deny assistance for costs that are not supported by documentation.
 5768 If actual cost documentation is not readily available and the applicant has provided sufficient documentation
 5769 to define the scope of work completed, FEMA will provide funding for completed work based on a cost
 5770 estimate.

5771 There may be cases where, during review of the documentation submitted, FEMA determines additional
 5772 information or explanation is required. In these instances, FEMA may generate a Request for Information
 5773 (RFI) specifying a deadline for response. After a time determined appropriate by the RA or FCO, a
 5774 determination memo (DM) will be issued if documentation is not provided to fully support eligibility. For more
 5775 information about the process, see Chapter 2: *Coordination and Appeal Rights*.

5776 For Small Projects, FEMA may accept certification in lieu of documentation to support costs claimed and may
 5777 process the project(s) based on estimated costs even if all work is completed if the applicant has provided
 5778 sufficient documentation to define the completed scope of work.³⁸²

5779 However, with exception of the scenarios listed in Chapter 12: *Small Projects*, Small Project estimates are
 5780 not subsequently adjusted to reflect actual costs. The applicant must still retain documentation to request a
 5781 Net Small Project Overrun appeal.

5782 **Estimating Emergency Work Projects with Work to be Completed**

5783 With the exception of debris removal and emergency repair projects, emergency work is often difficult to
 5784 estimate due to the type of work conducted. Unlike permanent work, where a detailed scope of work is
 5785 usually determined and estimated based on the damage, the detailed scope of work to address emergency
 5786 response activities is often unknown and therefore difficult to estimate in advance. Additionally, emergency
 5787 response activities generally do not have established unit pricing and other variables that can impact pricing.
 5788 If the applicant provides sufficient information, FEMA may process emergency work projects based on
 5789 estimates.

5790 **Estimating Permanent Work Projects with Work to be Completed**

5791 When work is not yet complete, FEMA determines the amount of PA funding based on the estimated cost to
 5792 restore the damaged facility to its pre-disaster design and function, including eligible codes and standards.
 5793 The amount may include a reasonable amount of anticipated soft costs but does not include costs that are
 5794 only related to, or only triggered by, changes to the pre-disaster design or function of the damaged facility.
 5795 These include, but are not limited to, costs related to.

- 5796 ▪ Engineering and design;
- 5797 ▪ EHP compliance; and
- 5798 ▪ Work required by codes or standards identified by the applicant and verified by FEMA.

5799 If FEMA developed the scope of work, it will also develop the associated cost estimate.

5800 **PROJECTS REQUIRING ENGINEERING ANALYSIS**

5801 Some projects may require an engineering analysis to determine the method of repair. In these cases, FEMA
 5802 will provide PA funding for engineering and design services if requested by the applicant.

5803 **APPLICANT ESTIMATES**

5804 FEMA accepts an applicant-submitted cost estimate if the estimate:

- 5805 ▪ Is prepared by a licensed professional engineer or other estimating professional, such as a licensed
 5806 architect or certified professional cost estimator³⁸³ who certifies that the estimate was prepared in
 5807 accordance with industry standards;

³⁸² Stafford Act § 422, 42 U.S.C. § 5189; 44 C.F.R. § 206.205(a).

³⁸³ 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.

- 5808 ▪ Includes certification that the estimated cost directly corresponds to the repair of the agreed upon
5809 damage;
 - 5810 ▪ Is based on unit costs for each component of the scope of work and not a lump sum amount;
 - 5811 ▪ Contains a level of detail sufficient for FEMA to validate that all components correspond with the agreed-
5812 upon scope of work;
 - 5813 ▪ Is based on the current phase of design or construction inclusive of any known costs;
 - 5814 ▪ Includes actual costs for work completed at the time the cost estimate is developed; and
 - 5815 ▪ Is reasonable.
- 5816 Any foreseeable contingency costs such as security, staging, etc. should be included in the applicant-
5817 submitted cost estimate. FEMA evaluates applicant-submitted estimates for reasonableness based on the
5818 criteria in Chapter 6: *Reasonable Costs*.

5819 FEMA ESTIMATES

5820 When FEMA develops cost estimates for sites with Permanent Work that is less than 90 percent complete
5821 and total costs are expected to meet or exceed the Large Project threshold, FEMA uses the Cost Estimating
5822 Format (CEF) in accordance with the CEF Instruction Guide. The CEF Instructional Guide defines various
5823 factors and the range of percentage values that FEMA may apply to projects. In rare cases, a factor may
5824 need to be reviewed or adjusted. FEMA Headquarters has access to technical assistance to review the
5825 appropriate ranges for factors. Only FEMA Headquarters has the authority to approve the use of factors that
5826 exceed the CEF specified range or approve additional factors. However, for capped projects (Improved,
5827 Alternate, or Alternative Procedures Projects), FEMA only includes the CEF contingency factor “Applicant
5828 Reserve for Change Orders” and does not include any additional factors or risk premiums. See [Cost](#)
5829 [Estimating Tools](#) for more information on resources to assist with understanding how FEMA develops an
5830 estimate.

5831 INSURANCE REDUCTIONS

5832 FEMA reduces the estimate to account for insurance coverage based on:

- 5833 ▪ Actual insurance proceeds, if known; or
- 5834 ▪ Anticipated insurance proceeds based on the applicant’s insurance policy if the amount of actual
5835 proceeds is unknown.

5836 FIXED-COST OFFER FOR ALTERNATIVE PROCEDURES PROJECTS

5837 FEMA engages qualified engineers and architects, cost estimators, construction managers, and staff with
5838 other technical expertise, as necessary, to develop or review and validate estimates for all large permanent
5839 work projects. FEMA transmits the estimates as fixed-cost offers to the applicant via PA Grants
5840 Manager/Grants Portal for consideration. If the applicant accepts the fixed-cost offer for a large project, it is
5841 considered an Alternative Procedures Project.

5842 FEMA approves the fixed-cost amount upon obligation of the project.³⁸⁴ Once the fixed-cost amount is
 5843 obligated, FEMA considers it reasonable and eligible if there is no evidence of fraud and the applicant
 5844 complies with federal grant conditions, including procurement requirements.

5845 Table 29. Differences Between Alternative Procedures and Standard Projects summarizes the differences
 5846 between the Alternative Procedures policy and the standard PA policy.

5847 **Table 29. Differences Between Alternative Procedures and Standard Projects**

Alternative Procedures Project	Standard Project
Fixed-cost project with use of excess funds.	Actual cost project. No retention of excess funds associated with the approved estimate.
May use funds across all Alternative Procedure Permanent Work Projects.	Can only use funds toward the specific work identified in each specific project.
After FEMA approves a SOW, approval is only required for changes that involve buildings or structures aged 45 years or older, ground disturbing activities, or work in or near water.	After FEMA approves a SOW, approval is required for any change to the SOW.
Do not need to track costs associated with changes to the SOW (see Chapter 12: <i>Alternative Procedures Permanent Work Projects</i> for closeout requirements)	Must track costs associated with all changes to the SOW.
Do not need to track costs to specific work items. Only need to track the total costs associated with all of its Alternative Procedures Permanent Work Projects. (See Chapter 12: <i>Alternative Procedures Permanent Work Projects</i> for closeout requirements)	Must track costs specific to each work item within each individual project.
Do not need to track work to specific Alternative Procedures Projects. Only need to substantiate that the work is related to the approved SOW covered across the projects.	Must track all work to each individual project.

5848 Once the applicant accepts a fixed cost offer, it cannot change to a project funded based on actual costs.
 5849 FEMA does not adjust the fixed amount even if the applicant discovers hidden damage while conducting
 5850 approved work. Prior to closing the project, FEMA adjusts the fixed estimate to account for actual insurance
 5851 proceeds as described in Chapter 6: *Insurance Proceeds*. Once FEMA and the applicant agree to a fixed-
 5852 cost, FEMA will not adjust funding based on reasonableness or eligibility, provided the applicant completes
 5853 the approved scope of work. This does not prevent deobligations due to noncompliance with grant
 5854 conditions, such as environmental or historic preservation; duplication of benefits, including insurance; or
 5855 evidence of fraud.

³⁸⁴ Obligation constitutes FEMA’s acceptance of the fixed amount.

5856 If the estimated amount is less than the applicant is willing to accept as a fixed cost, the applicant may
5857 decline the offer and FEMA will process the project using standard procedures. In these cases, FEMA
5858 obligates the project based on the estimated amount in the offer and adjusts funding based on actual
5859 eligible costs at closeout.

5860 **EXPERT PANEL REVIEW**

5861 A FEMA-funded,³⁸⁵ independent third-party panel of cost estimating experts may review project estimates for
5862 fixed-cost offer, Alternative Procedures projects. The review is limited to issues pertaining to the estimated
5863 cost and the panel does not make decisions related to the eligibility of work. However, the panel may make
5864 determinations about whether cost elements are required to execute the SOW. The panel may review cost
5865 documentation for completed work, if necessary.

- 5866 ▪ All fixed cost offer project estimates with an estimated federal share of \$25 million or greater are
5867 reviewed by the independent panel.
- 5868 ▪ FEMA may request the independent panel review for any cost estimate.
- 5869 ▪ The applicant may request the panel review the estimate for any project with an estimated federal share
5870 of at least \$5 million.

5871 **FIXED-COST OFFER DEADLINES**

5872 The applicant has up to 18 months from the disaster declaration date to accept a fixed-cost offer for each
5873 project (also subject to 30-day deadline from receipt). If the applicant is requesting PA hazard mitigation
5874 funding, it must determine the actual SOW and hazard mitigation measures to be performed within the 30-
5875 day and 18-month deadlines. Likewise, if an applicant is requesting a project for only Architecture and
5876 Engineering (A&E), it must determine the actual SOW to be performed within the 30-day and 18-month
5877 deadlines before a fixed-cost offer is transmitted. Each time FEMA transmits a fixed-cost offer, the recipient
5878 and applicant have a combined total of 30 calendar days from the date of FEMA's transmittal to accept the
5879 offer (not to exceed the 18-month deadline). FEMA processes projects without accepted fixed-cost offers by
5880 the 30-day and 18-month deadlines using standard PA policies and procedures and adjusts funding based
5881 on actual eligible costs at closeout.

5882 Time extensions to accept fixed-cost offers must be approved by FEMA's Assistant Administrator for
5883 Recovery before the deadline.

5884 **Compliance Reviews**

5885 FEMA conducts a series of reviews during phases III, IV & V, to include a final review step, to ensure program
5886 compliance. During phases III and IV, FEMA reviews projects for quality assurance, insurance requirements,
5887 PA hazard mitigation eligibility, and EHP compliance.

³⁸⁵ The expert panel is fully funded by FEMA and does not require a non-Federal cost share.

5888 **Obligation**

5889 During the Obligation and Recovery Transition phase, FEMA obligates funding to recipients and transitions
5890 recovery roles and responsibilities. For additional information on these phases, see Program Delivery Guide.

5891 **Obtaining Funds**

5892 FEMA obligates the federal share of the eligible project cost to the recipient.³⁸⁶ Once obligated, the project
5893 constitutes the official record of the approved scope of work.

5894 **Strategic Funds Management**

5895 Strategic Funds Management is FEMA's process for obligating PA funding based on the applicant's schedule
5896 to execute the work. If a permanent work project is greater than \$1 million and the applicant does not need
5897 funds for more than 180 days from the time the Project is ready for obligation, FEMA obligates funds based
5898 on the project completion schedule. [FEMA's Strategic Funds Management – Implementation Procedures for
5899 the Public Assistance Program \(FEMA SOP 9570.24\)](#) addresses this obligation process in detail.³⁸⁷

5900 The recipient is responsible for notifying the applicant that funds are available³⁸⁸ and for distributing the
5901 funds to the appropriate subrecipient.³⁸⁹ Funds that FEMA has obligated are available to the recipient to
5902 pass through to the appropriate subrecipient.³⁹⁰

5903

5904

³⁸⁶ 44 C.F.R. § 206.202(e).

³⁸⁷ [Strategic Funds Management - Implementation Procedures for the Public Assistance Program](#)

³⁸⁸ 44 C.F.R. § 206.200(b)(2)(i).

³⁸⁹ 44 C.F.R. § 206.202(a).

³⁹⁰ 44 C.F.R. § 206.200(b)(2)(ii).

Chapter 10: Environmental and Historic Preservation

All federally funded projects are required to undergo a review process to assess potential impacts and compliance with applicable federal laws, regulations, and executive orders. This chapter is designed to inform applicants on the requirements and expectations of the environmental and historic preservation (EHP) compliance review process to ensure smooth communication and efficient progress throughout the PA Grant Lifecycle.

EHP Compliance

PA funded projects must comply with FEMA Directive 108-1, *Environmental Planning and Historic Preservation Responsibilities and Program Requirements*³⁹¹ and with all applicable EHP laws, implementing regulations, and executive orders (EOs) and to address adverse impacts to environmental and historic resources through avoidance, minimization, or compensatory measures. These EHP requirements aim to protect various resources such as water, air, coastal areas, wildlife, land, agriculture, historic facilities, cultural resources, and minimize adverse effects on low-income and minority populations. When PA provides funding to applicants, these grants must comply with laws and regulations designed to protect natural, cultural, and historical resources. A Greensheet is tool, prepared by EHP at the beginning of each declaration, which discusses EHP information specific to the disaster declaration designated area(s).

EHP Specialists assist applicants by providing technical expertise throughout the PA Program delivery process. They inform applicants of the legal requirements associated with their grant funding, such as:

- Acquisition of permits and letters of exemption;
- Contact information for local, state, and federal regulatory agencies; and
- Simplified guidance on how to understand and meet any project-specific conditions of the Record of Environmental Consideration (REC).

Applicants play a critical role in the EHP Review by communicating any concerns and questions to the assigned PA and EHP Specialist teams early and often. By providing complete and accurate information and addressing any potential changes to the scope of work, Applicants can facilitate the project compliance review and reduce the amount of time for project obligation.

³⁹¹ [EHP Directive & Instruction \(FEMA Directive 108-1 & Instruction 108-1-1\) | FEMA.gov](#)



Terminology: Record of Environmental Consideration

A **Record of Environmental Consideration (REC)** is a FEMA administrative document that records the application of a categorical exclusion (CATEX) or statutory exclusion (STATEX) to a specific proposed action (scope of work) and captures the compliance determinations made for all applicable EHP laws and EOs. The REC is also used to convey any conditions for compliance that have been placed on the project.

EHP Compliance Review

FEMA's goal is to assist applicants in their efforts to recover from a devastating incident and ensure all recovery work protects resources and minimizes adverse effects. To accomplish this, all PA funded projects are required to undergo an EHP review. EHP Specialists need information about the work to determine what requirements apply to a project to complete the review. EHP Specialists review the applicant's Scope of Work (SOW) and supporting documentation to understand what the applicant proposes to do, the locations of the work including equipment and material staging locations, and what natural or cultural resources may be impacted. See Chapter 9: *Scoping, Costing, and Final Reviews* for more information on how to create a complete SOW which includes all the necessary details for EHP to complete their review. During the review, EHP evaluates the potential impacts of the project on the natural and built environment. The findings are documented in an REC which is included in every project. EHP Specialist will inform the applicant of any consultation(s) with regulatory agencies needed and all project-specific compliance conditions.

For completed or partially work, the applicant is required to provide all documentation and evidence to demonstrate compliance with any project-specific conditions. Documentation associated with the EHP review process may include items such as permits, certification of compliance with applicable conditions, post-construction surveys, etc. See Chapter 12: *Final Reconciliation and Closeout* for more information.

Although EHP reviews can be completed quickly, review timeframes can vary depending on the complexity of the scope of work, resources affected, public notice requirements, and consultation with regulatory agencies. For additional information on EHP compliance review visit: <https://www.fema.gov/emergency-managers/practitioners/environmental-historic>.

REQUIRED INFORMATION AND DOCUMENTATION

FEMA requires the applicant to provide information about the scope of work to support the EHP review. Applicants can support a smooth review process by providing following commonly triggered information and documentation requirements for PA projects during the project formulation process:

- Physical address, if applicable, and GPS coordinates for specific work sites (e.g., equipment and material staging locations, ground disturbance locations, material fill source locations, etc.);
- Dimensions of all ground disturbance;
- Repair or restoration details (including type and quantity of materials, equipment, and supplies used);
- Original date of facility construction and subsequent renovations;

- 5968 • Equipment and materials staging information;
- 5969 • Temporary and final disposal site information for debris;
- 5970 • Timeframe of work performed;
- 5971 • Source of fill material;
- 5972 • Maps or photographs to support the SOW;
- 5973 • Plans, drawings, and/or blueprints to explain the SOW;
- 5974 • Studies and surveys, if requested; and
- 5975 • Applicable permits, authorizations, and correspondence with regulatory agencies.

5976 A Request for Information (RFI) may be generated for clarification or any information or documentation is not
 5977 provided. See Chapter 2: *Requests for Information* to learn more about the RFI Process.

5978 **Projects that Qualify for Streamlined EHP Review**

5979 All projects are subject to an EHP compliance review, however the timeframes for this review vary depending
 5980 on the type of project. FEMA's EHP collaborates closely with regulatory partners to create streamlined
 5981 procedures and processes, such as programmatic agreements or consultations. These programmatic
 5982 documents contain predetermined compliance decisions based on reviews that assess the potential impacts
 5983 of projects or actions that are carried out repeatedly and are likely to have similar effects that can be
 5984 assessed on a broader scale. These tools enable EHP Specialists to make compliance determinations
 5985 quickly, without the need for consultations with various multiple parties or regulatory agencies.



5986 **Examples: PA Projects that Qualify for Streamlined EHP Review**

- 5987 ▪ Projects intended to restore the facility back to pre-disaster condition using in-kind or like
 5988 materials.
- 5989 ▪ Projects with codes and standards upgrades.
- 5990 ▪ Projects involving replacement of contents, supplies or equipment.
- 5991 ▪ Projects with minor repair, restoration, or construction on buildings or structures less than 45-50
 5992 years old or not listed or eligible for listing in the National Register of Historic Places.

5993 **Projects Requiring Complex EHP Review**

5994 Projects that have potential for impacts to natural and cultural resources will require more detailed
 5995 information and longer compliance review time. These types of projects often require consultations or
 5996 coordination with other resources or regulatory agencies, including:

- 5997 ▪ [U.S. Fish and Wildlife Service \(FWS\)](#)
- 5998 ▪ [U.S. Environmental Protection Agency \(EPA\)](#)
- 5999 ▪ [National Marine Fisheries Service \(NMFS\)](#)
- 6000 ▪ [U.S. Army Corps of Engineers \(USACE\)](#)
- 6001 ▪ [State Historic Preservation Offices \(SHPO\)](#)

- 6002 ▪ [Tribal Historic Preservation Offices \(THPO\)](#)
- 6003 ▪ Other Applicable Local, State, and Territorial Regulatory Agencies

6004 Regulatory agencies have the authority to evaluate and approve projects through consultations or permitting
 6005 decisions. When a project requires FEMA to consult with a regulatory agency, the estimated timelines are
 6006 established by the responsible regulatory federal, state, and tribal resource agencies. See Chapter 10:
 6007 *Understanding EHP Laws and Executive Orders* for more information.



Examples: Projects with the Potential to Impact Natural and Cultural Resources

- 6009 ▪ Involves new construction or changes in the location, footprint, or size of a facility.
- 6010 ▪ Includes increase in the size, alignment, or location of a road, bridge, or culvert.
- 6011 ▪ Includes hazard mitigation and codes and standards upgrades.
- 6012 ▪ Affecting buildings, structures, sites, objects, or districts that are 45 years or older, historic
 6013 landmarks of any age and any work resulting in soil movement or change to the pre-disaster
 6014 footprint.
- 6015 ▪ Work near or within a special flood hazard area (regulatory floodway or the 1% annual chance
 6016 floodplain zone (100-year), or, for critical actions, in the 0.2% annual chance floodplain zone (500-
 6017 year).
- 6018 ▪ Work in or near environmentally sensitive areas such as barrier islands, conservation easements,
 6019 fish hatcheries, preserves, state and national parks, and wildlife management areas.
- 6020 ▪ Work in or near beaches, canals, lakes, rivers, streams, wetlands, or other bodies of water
 6021 including fishing piers.
- 6022 ▪ Staging and disposal (or recycling) of debris including, but not limited to, vegetative, construction
 6023 and demolition (C&D), and hazardous materials as a result of either the disaster event or the
 6024 project work.
- 6025 ▪ Actions that may result in disproportionately high and adverse effects to Low Income and Minority
 6026 Populations per E.O. 12898.

6027 **Projects Requiring Complex EHP Review by PA Project Type**

6028 **EMERGENCY WORK (CATEGORIES A & B)**

6029 While FEMA's statutory exclusions under Section 316 of the Stafford Act exempt most emergency actions
 6030 from review under the National Environmental Policy Act (NEPA), compliance with other laws, such as the
 6031 Endangered Species Act (ESA), National Historic Preservation Act (NHPA), Resource Conservation and
 6032 Recovery Act (RCRA), State Solid Waste Laws, Clean Air Act (CAA), Clean Water Act (CWA), and Executive
 6033 Orders 11988 (Floodplain Management), 13112 (Invasive Species), and 12898 and 14096 (Environmental
 6034 Justice), is still required.

6035 **DEBRIS REMOVAL (CATEGORY A)**

6036 Although debris removal is usually statutorily excluded from the National Environmental Policy Act (NEPA)
 6037 review, FEMA must ensure compliance with other EHP-related federal laws, regulations, and EOs prior to

6038 funding the work. Accordingly, FEMA must ensure that the applicant’s debris removal operations avoid
 6039 impacts to such resources as floodplains, wetlands, federally listed threatened and endangered species and
 6040 their critical habitats, and historic properties (including maritime or underwater archaeological resources if
 6041 waterways are impacted). Additionally, debris removal operations must avoid impacts that contribute to
 6042 hazardous gas release and water supply contamination. The applicant must ensure they follow conditions
 6043 established by state, local, tribe, and territory authorities and must stage debris at a safe distance from
 6044 property boundaries, surface water, floodplains, wetlands, structures, wells, and septic tanks with leach
 6045 fields. Additional coordination may be necessary for debris removal from waterways, stump removal, and
 6046 use of fill.

6047 The applicant is responsible for permits and compliance with federal, state, tribal, and territorial
 6048 requirements. The applicant needs to work with the disaster EHP staff to gain clarity on compliance
 6049 requirements and permits for debris-related operations. Upon completion of debris removal, recycling, and
 6050 disposal, site remediation may be necessary at staging sites and other impacted areas.

6051 **EMERGENCY PROTECTIVE MEASURES (CATEGORY B)**

6052 Although emergency protective measures are usually statutorily excluded from NEPA review, FEMA must
 6053 ensure compliance with other EHP-related federal laws, regulations, and EOs prior to funding the work.
 6054 Accordingly, FEMA must ensure that the applicant’s emergency protective measures avoid, where possible,
 6055 impacts to resources such as federally listed threatened and endangered species and their critical habitats,
 6056 and historic properties and considers impacts to and from floodplain and wetlands.

6057 For emergency work that occurs in or near impacted areas that have natural and cultural resources, FEMA
 6058 encourages applicants to coordinate prior to conducting work to front-load any applicable EHP
 6059 considerations in a timely manner. For work that is complete at the time the project application is submitted
 6060 to FEMA, documentation is still needed to facilitate the EHP review of emergency work projects and to
 6061 demonstrate EHP compliance even if it is after-the-fact. See Chapter 12: *Final Reconciliation and Closeout*
 6062 for more information.



6063 **Examples: Emergency Work Projects that have the Potential to Impact EHP Resources**

- 6064 ▪ Burning of debris
- 6065 ▪ Debris removal from waterways and shorelines
- 6066 ▪ Mold remediation
- 6067 ▪ Mosquito Abatement
- 6068 ▪ Construction of temporary access roads, levees, and emergency berms
- 6069 ▪ Demolition of unsafe structures
- 6070 ▪ Purchase or construction of temporary facilities for essential community services
- 6071 ▪ Temporary actions in coastal areas

6072 **PERMANENT WORK (CATEGORIES C-G)**

6073 Permanent work projects that involve changes in location, footprint, alignment, or size of a facility or that
 6074 occur in or affect natural and cultural resources often require a more intensive EHP review and trigger more
 6075 compliance requirements. These projects often include Alternate or Improved Projects, projects that involve
 6076 significant changes to the pre-disaster configuration or the relocation of a facility projects that incorporate
 6077 codes and standards upgrades, or projects that incorporate hazard mitigation. It is important to understand
 6078 EHP requirements during the project formulation and SOW development phases for these types of
 6079 permanent work projects.



6080 Examples: Permanent Work Projects that have the Potential to Impact EHP Resources

- 6081 ▪ Upsizing culverts and redesigning water conveyance structures
- 6082 ▪ Replacement or relocation of a bridge
- 6083 ▪ Modifications to the interior or exterior of a historic building
- 6084 ▪ Reconstruction of a waterfront boardwalk or pier
- 6085 ▪ Relocation and/or burial of utility lines
- 6086 ▪ Beach renourishment projects
- 6087 ▪ Relocation of facilities to undisturbed areas
- 6088 ▪ Repairs to substantially damaged structures within the floodplain
- 6089 ▪ New structures or facilities

6090 Navigating the EHP Compliance Process

6091 While FEMA EHP provides technical assistance and guidance to applicants in each step of the application
 6092 process, there are some things applicants can do to help ensure a timely and efficient EHP review. Below are
 6093 some guidelines to help applicants navigate the EHP compliance process:

- 6094 ▪ Provide detailed information for assessing potential impacts, including a complete and clear scope of
 6095 work to minimize requests for clarification and information.
- 6096 ▪ Provide maps or sketches of work details, photographs, site plans, and area descriptions of pre-disaster
 6097 conditions and proposed or completed work to reduce requests for information from EHP.
- 6098 ▪ Obtain any necessary permits and/or authorizations prior to construction.
- 6099 ▪ Provide any pre-existing permits and/or authorizations. FEMA may be able to expedite the EHP
 6100 compliance review based upon existing and applicable permit and/or authorization documentation.
- 6101 ▪ Document and keep copies of any correspondence with federal or state agencies regarding permits
 6102 and/or authorizations. Attach those copies to the grant application.
- 6103 ▪ Adhere to permit and/or authorization conditions for implementing work and utilize identified best
 6104 management practices as specified by regulatory agencies. Verify conditions were met if work is
 6105 completed.
- 6106 ▪ Provide detailed information for assessing potential impacts, including a complete and clear scope of
 6107 work to minimize requests for clarification and information.

- 6108 Provide maps or sketches of work details, photographs, site plans, and area descriptions of pre-disaster
6109 conditions and proposed or completed work to reduce requests for information from EHP.

6110 Understanding EHP Laws and Executive Orders

6111 The most commonly encountered federal laws FEMA reviews for EHP compliance include, the National
6112 Environmental Policy Act, National Historic Preservation Act, Endangered Species Act, EO 11988 Floodplain
6113 Management, EO 11990 Wetlands Protection, EO 12898 and EO 14096 Environmental Justice, Coastal
6114 Barrier Resource Act, and Clean Water Act (CWA). More information about these laws is provided below.

6115 Depending on the project location and type of work, compliance with other laws, such as, the Coastal Zone
6116 Management Act, Resource Conservation and Recovery Act, or Marine Mammal Protection Act may be
6117 required. See Appendix A: *Environmental and Historic Preservation Compliance* for descriptions of
6118 additional EHP laws and Executive Orders (EOs) that are not covered in this section.

6119 NATIONAL ENVIRONMENTAL POLICY ACT (NEPA)

6120 The purpose of NEPA is to ensure that environmental factors are weighted equally when compared to other
6121 factors in the decision-making process undertaken by federal agencies. NEPA requires that the effects of
6122 proposed actions and alternatives on the human environment be shared with the public and considered by
6123 an agency before deciding on the proposed action. The human environment includes the natural and
6124 physical environment and the relationship of people within that environment.

6125 EHP considers the statutory necessity and likelihood of environmental consequences of a proposed action or
6126 connected actions when determining the appropriate level of NEPA review:

- 6127 **Statutory Exclusion (STATEX)** means the work (proposed action) is exempt from NEPA review because
6128 actions covered by STATEX are required in the aftermath of a disaster to return facilities to their pre-
6129 disaster condition and therefore have little or no impact on the environment.
- 6130 **Categorical Exclusion (CATEX)** is a form of NEPA compliance that applies to actions that do not need to
6131 undergo a detailed NEPA review because the agency has evaluated and demonstrated that these types
6132 of work (actions) do not normally have the potential to have a significant effect upon the environment.
6133 Moreover, CATEXs are applied to projects that have no extraordinary circumstances present, which
6134 would require a more detailed NEPA Review (Environmental Assessment or Environmental Impact
6135 Statement).
- 6136 **Environmental Assessments (EAs)** are prepared for projects that do not fall under a STATEX or CATEX
6137 and when it is unlikely or unknown whether the proposed project would cause significant environmental
6138 and/or historic impacts. This is a more detailed examination of the project and requires an evaluation of
6139 alternatives and public involvement component. EAs can result in the following findings:
 - 6140 ○ A Finding of No Significant Impact means the action will not have significant impacts and is not
6141 highly controversial in terms of environmental impacts.
 - 6142 ○ If the action will have significant impacts or controversy in terms of environmental impacts, then an
6143 Environmental Impact Statement is prepared that results in a Record of Decision.
- 6144 **Environmental Impact Statement (EIS)** examines a major federal action that significantly affects the
6145 quality of the human and natural environment. It is a detailed impact study that requires extensive
6146 agency and public coordination.

6147 NATIONAL HISTORIC PRESERVATION ACT (NHPA)

6148 Emergency protective measures, debris removal, and permanent work to repair, restore or replace disaster-
6149 damaged facilities may impact historic properties, including buildings, structures, sites, including
6150 archaeological resources, objects, and districts. Section 106 of the National Historic Preservation Act (NHPA)
6151 requires FEMA to assess if PA-eligible work will affect such properties and consult with the State Historic
6152 Preservation Officer (SHPO) or Tribal Historic Preservation Officer (THPO), and other consulting parties,
6153 including the subrecipient and recipient, to resolve any adverse effects to identified properties through
6154 avoidance, minimization, or compensation measures. Through the execution of Programmatic Agreements
6155 with the SHPO/THPO and recipient, FEMA ensures streamlining of the Section 106 compliance process while
6156 integrating historic preservation considerations into the formulation and implementation of PA projects.

6157 ENDANGERED SPECIES ACT (ESA)

6158 Under the Endangered Species Act, the federal government (including FEMA) has the responsibility to protect
6159 endangered species (species that are likely to become extinct throughout all or a large portion of their
6160 range), threatened species (species that are likely to become endangered in the near future) and critical
6161 habitat (areas vital to the survival of endangered or threatened species). Under Section 7 of the ESA, all
6162 federal agencies including FEMA are required to review their actions or funded actions, including PA projects,
6163 for potential effects to federally-listed species or critical habitat. If FEMA determines there will be an effect to
6164 species or their critical habitat, they must consult with the US Fish and Wildlife Service and/or National
6165 Marine Fisheries Service on that action. The consultation may be informal or formal depending on the level
6166 of effects to species or critical habitat. Consultation may result in the application of project-specific
6167 conditions such as timing restrictions or construction best practices that an applicant must follow in order to
6168 be compliant with the ESA. For more information on the requirements of the ESA please see
6169 www.fws.gov/law/endangered-species-act

**6170 EXECUTIVE ORDERS (EO) 11988 & 11990: FLOODPLAIN MANAGEMENT AND WETLANDS
6171 PROTECTION**

6172 FEMA actions, including Public Assistance projects, must conform to [44 CFR Part 9](#), which incorporates the
6173 requirements of EO 11988, as amended, and EO 11990. Applicants must review all proposed actions to
6174 determine whether they are in the floodplain or wetland. In accordance with EO 11988, as amended, and EO
6175 11990, FEMA must complete an eight-step decision-making process for proposed actions located in the 1%
6176 annual chance floodplain, or 0.2% annual chance floodplain for critical actions, and wetlands, and proposed
6177 actions that have the potential to affect or be affected by a floodplain or wetland.

6178 As part of the eight-step decision-making process, FEMA must consider alternative locations and actions to
6179 determine whether the floodplain or wetland is the only practicable location for that action. Applicants
6180 should document alternatives considered as part of their application process to assist FEMA in facilitating
6181 this decision-making process. If the floodplain or wetland is the only practicable location, the applicant must

6182 avoid or must minimize adverse impacts to the floodplain or wetland and also be in compliance with any
6183 more restrictive Federal, State, or local floodplain management standards³⁹².

6184 EXECUTIVE ORDERS (EO) 12898 & 14096: ENVIRONMENTAL JUSTICE

6185 FEMA Programs and applicants all play a critical role in achieving environmental justice by being aware of
6186 and identifying the presence of communities with environmental justice concerns within a proposed projects'
6187 impacted area as early as possible. The impacted area includes all areas of the scope of work for the
6188 proposed project, any staging areas or hauling routes, and any areas outside of the immediate project
6189 location that may be impacted indirectly by the proposed scope of work. This allows the consideration of
6190 disproportionate direct, indirect, and cumulative effects of environmental hazards early in the project
6191 development stage.



6192 Projects That Can Lead to Direct and Indirect Disproportionate Effects

- 6193 ▪ Debris hauling and/or burning
- 6194 ▪ Road repairs
- 6195 ▪ Relocation of public facilities
- 6196 ▪ Closure, relocation, or consolidation of housing, employment opportunities, & public schools
- 6197 ▪ Alternate/improved projects & new construction
- 6198 ▪ Reconstruction of a waterfront boardwalk or pier

6199 If FEMA determines that a proposed project would have disproportionately high and adverse effects on
6200 minority and/or low-income populations, FEMA will work with an applicant to revise the scope of work to
6201 avoid the impacts or condition of a project with mitigation measures to alleviate the impacts to the greatest
6202 extent possible. Additionally, FEMA may work with applicants to solicit public input on the proposed project
6203 for a more informed decision-making process.
6204

6205 COASTAL BARRIER RESOURCES ACT (CBRA)

6206 In accordance with Coastal Barrier Resources Act,³⁹³ FEMA may assist projects in otherwise Protected Areas
6207 if they do not require flood insurance after project completion.³⁹⁴ Projects in a John H. Chafee Coastal
6208 Barrier Resources System (CBRS) unit are eligible only if they qualify for one of the exceptions in Section 6 of

³⁹² 44 CFR § 9.11(d)(6)

³⁹³ Public Law 97-348 (Oct. 18, 1982), as amended. To remove federal incentives to develop coastal areas, the Coastal Barrier Resources Act designated relatively undeveloped land along the Atlantic and Gulf Coast as part of the John H. Chafee Coastal Barrier Resources System (CBRS) and made these areas ineligible for most new federal assistance.

³⁹⁴ Congress reauthorized the Coastal Barrier Resources Act with the Coastal Barrier Improvement Act of 1990 (Public Law 101-591 [Nov. 16, 1990]), expanding the CBRS to include undeveloped coastal barriers along the Florida Keys, Great Lakes, Puerto Rico and the U.S. Virgin Islands. It also added a new category of undeveloped barriers called [Otherwise Protected Areas](#). Otherwise Protected Areas consist of conservation or recreation areas such as national wildlife refuges, state and national parks, local conservation areas and private conservation areas, although they may also contain private areas not for conservation.

6209 the Coastal Barrier Resources Act³⁹⁵ and comply with FEMA's CBRA regulations that provide further
6210 information on the restrictions for funding specific to disaster recovery.³⁹⁶That is, projects are eligible if they
6211 are consistent with the purposes of the Coastal Barrier Resources Act and qualify as projects for the study,
6212 management, protection and enhancement of fish and wildlife resources and habitats.³⁹⁷

6213 All projects that occur in or adjacent to CBRS units must meet one of the Coastal Barrier Resources Act
6214 exceptions and require that FEMA consult with the appropriate U.S. Fish and Wildlife Service Ecological
6215 Services field office.

6216 Proposed actions carried out within or adjacent to an otherwise protected area do not require consultation
6217 with the U.S. Fish and Wildlife Service.

6218 **CLEAN WATER ACT (CWA)**

6219 The Clean Water Act (CWA) establishes the basic structure for regulating discharges of pollutants into Waters
6220 of the United States (WOTUS) and regulating the quality of surface waters. Together with the Rivers and
6221 Harbors Act of 1899 (RHA), CWA helps define the federal government's jurisdiction over, and approach to,
6222 managing waters under its jurisdiction. These laws give the U.S. Army Corps of Engineers (USACE), U.S. Coast
6223 Guard, U.S. Environmental Protection Agency (EPA), and other agencies permitting authority over certain
6224 activities affecting "navigable waters of the United States" subject to federal jurisdiction under the RHA and
6225 "navigable waters" subject to federal jurisdiction under the CWA, which are defined as "waters of the United
6226 States" (WOTUS).

6227 It is the responsibility of the applicant to obtain any required CWA Section 401 water quality certification and
6228 CWA Section 402 NPDES permits whenever there is the work in waterways or the potential for discharge of
6229 wastewater pollutants (including sediment) to surface waters (e.g., wetlands, ponds, lakes, streams, and
6230 rivers). FEMA typically conditions grant approval upon the applicant obtaining all relevant certifications and
6231 permits required for the project.

6232 CWA Section 404 establishes a program to regulate the discharge of dredged or fill material into WOTUS,
6233 including wetlands. Section 404 requires that a permit be obtained before dredged or fill material may be
6234 discharged into WOTUS, unless the activity is exempt from Section 404 regulation. It is the responsibility of
6235 the applicant to obtain a Section 404 permit, declare the use of a non-reporting NWP, or provide
6236 documentation that no permit is required.

³⁹⁵ [16 United States Code \(U.S.C.\) § 3505](#)

³⁹⁶ 44 CFR § 206 Subpart J

³⁹⁷ [16 U.S.C. § 3505\(a\)\(6\)\(A\)](#), [44 CFR § 206.345](#)



Projects that can Trigger CWA Section 404 Permitting Requirements

- 6237
- 6238
- 6239
- 6240
- 6241
- 6242
- Culvert or bridge replacements in WOTUS.
- Shoreline revetments.
- Embankment armoring.
- Repair or replacement of docks and piers.
- Beach renourishment.

Coordination with Other Federal Agencies

6243
6244 When multiple federal agencies are conducting, supporting (including funding), or permitting projects in the
6245 same geographic area, early coordination is essential to avoid the potential for conflicting EHP standards
6246 being applied within the same geographic area or on the same project. Accordingly, when FEMA is funding
6247 an action with or in the same area as another federal agency, FEMA will coordinate with the applicable
6248 federal agencies as early in the planning process as possible to promote streamlining of EHP compliance
6249 reviews. For example, Public Housing Agencies (PHAs) are eligible to receive PA funding for projects involving
6250 their public housing portfolio. When public housing receives PA funding, FEMA EHP will reach out to the US
6251 Department of Housing and Urban Development (HUD) to coordinate on the environmental and historic
6252 preservation review process.

UNIFIED FEDERAL REVIEW (UFR)

6253
6254 FEMA has committed to expediting and unifying environmental reviews. The Unified Federal Review (UFR)
6255 process offers additional coordination opportunities for FEMA and other federal agencies. The UFR allows for
6256 higher-level resolution in instances where agreement on a common approach reaches an impasse. For more
6257 information on the UFR Process, see FEMA's website at [Unified Federal Environmental and Historic](#)
6258 [Preservation Review \(UFR\) Library | FEMA.gov](#).

Partnerships and Resources

HERITAGE EMERGENCY NATIONAL TASK FORCE (HENTF)

6261 The [Heritage Emergency National Task Force \(HENTF\)](#), a partnership between FEMA's Office of
6262 Environmental Planning and Historic Preservation (OEHP) and the Smithsonian Cultural Rescue Initiative
6263 (SCRI), strives to protect SLTT cultural and historic resources from the damaging effects of disasters. HENTF
6264 supports the Natural & Cultural Resources Recovery Support Function (NCR RSF) in developing recovery
6265 needs assessments by identifying issues, impacts, and unmet needs of private nonprofit cultural institutions
6266 such as museums, libraries, historical societies, city/town clerk offices, and performing arts organizations.

6267 HENTF's 60-plus members – federal agencies and private nonprofit national service organizations –
6268 represent expertise in the arts, culture, historic preservation, emergency management, and tribal affairs.
6269 HENTF can serve as a technical-assistance resource for PDMGs to address issues specific to sub-applicants
6270 in the arts and culture sector, e.g., by identifying vendors experienced in document recovery, advising on

6271 conservators and allied professionals identified by the sub-applicant, and evaluating work scopes for
6272 treatment of objects.

6273 HENTF actions during disaster operations include:

- 6274 ▪ Coordinates the collection and sharing of incident-specific information to support the federal response.
- 6275 ▪ Initiates a chain of communications with its members, state cultural agencies, state and regional
6276 library/archives/museum/arts associations, and SLTT cultural heritage emergency networks for
6277 situational awareness.
- 6278 ▪ Requests reports of impacts and damages to cultural institutions and arts organizations and the
6279 identification of unmet needs, including the following:
 - 6280 ○ Name and location of an impacted institution
 - 6281 ○ Point(s) of Contact
 - 6282 ○ Facilities damage (extent and severity of damage)
 - 6283 ○ Types of damages to collections:
 - 6284 – Types of collections (e.g., paintings, books, documents)
 - 6285 – Types of damaged special collections (e.g., government records, rare books, and manuscripts)
 - 6286 – Extent of damage to collections
 - 6287 – Identification of potential measures to treat impacted collections
- 6288 ▪ Aids in dissemination of PA information and updates via HENTF network to reach stakeholders at the
6289 local level.

6290 **Resource Links**

- 6291 ▪ [Environmental & Historic Preservation Grant Preparation Resources](#)
- 6292 ▪ <https://www.fema.gov/emergency-managers/practitioners/environmental-historic>
- 6293 ▪ [The Heritage Emergency National Task Force \(HENTF\) | FEMA.gov.](#)
- 6294 ▪ [FEMA - Emergency Management Institute \(EMI\) Course | IS-253.A: Overview of FEMA's Environmental
6295 and Historic Preservation Review](#)
- 6296 ▪ [FEMA - Emergency Management Institute \(EMI\) Course | IS-1016: Environmental and Historic
6297 Preservation \(EHP\) Considerations/Compliance for Public Assistance Grants](#)

6298
6299

Chapter 11: Project Monitoring and Amendments (Phase VI)

During Phase VI, the Project Monitoring and Amendments phase, PA staff monitor the status of PA projects to ensure subrecipients spend funds according to the approved SOW, within the approved deadline, and in accordance with compliance conditions on the project. During this Phase, PA staff monitor overall progress and respond to requests for changes in scopes of work, time extensions, appeals, audits, and arbitration. For additional information on Phase VI Project Monitoring and Amendments activities, refer to Program Delivery Guide.

Large Project Quarterly Progress Reports

The Large Project Quarterly Progress Report (QPR) 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 a quarterly basis.³⁹⁸ The subrecipient and recipient has reporting requirements as explained in Table 31 Required documentation for Quarterly Progress Reports. Recipients must submit QPRs to FEMA no later than 30 days after the end of each quarter (see Table 30, *Deadlines for Submitting Quarterly Progress Reports*).

Table 30. Deadlines for Submitting Quarterly Progress Reports

Quarter	Dates	Report Due Date
1	January 1 – March 31	April 30
2	April 1 – June 30	July 30
3	July 1 – September 30	October 30
4	October 1 – December 31	January 30

Table 31. Required documentation for Quarterly Progress Reports

Large Projects
<p>Subrecipient Reporting Requirements: Large Projects with an Incomplete Scope of Work (Work is Still In-Progress)</p> <ul style="list-style-type: none"> ▪ A brief description of known problems or circumstances that are expected to cause a deviation from the approved scope of work, cost, delay project completion or delay project closeout; ▪ Status of the project (either construction phase or percent complete); ▪ Whether the work is complete (per definition in Chapter 11: <i>Work Completion Deadlines</i>); ▪ Project period of performance end date; ▪ Projected completion date (per definition in Chapter 11: <i>Work Completion Deadlines</i>); and ▪ Status of time extension, if applicable.

³⁹⁸ 44 C.F.R. § 206.204(f).

Large Projects
<p>Subrecipient Reporting Requirements: Large Projects with Complete Scope of Work (Work is Completed)</p> <ul style="list-style-type: none"> ▪ Date work was completed; and ▪ Entity responsible for the action in the closeout process (FEMA, recipient, subrecipient).
<p>Recipient Reporting Requirements: Large Projects with Complete Scope of Work (Work is Completed)</p> <ul style="list-style-type: none"> ▪ Total amount disbursed to the subrecipient; ▪ Whether final payment was made; ▪ Whether time extensions were approved; and ▪ Latest approved work completion deadline.

6316 **Financial Status Reports**

6317 Recipients submit Federal Financial Report (SF-425) quarterly to the respective FEMA Regional Office.³⁹⁹ The
 6318 reports provide the status of funds for the prime award, the recipient’s expenditure drawdowns, and whether
 6319 the recipient is meeting its cost-share requirements.

6320 **Federal Funding Accountability and Transparency Act**

6321 The Federal Funding Accountability and Transparency Act (FFATA) requires that FEMA must manage and
 6322 administer awards in a manner so as to ensure that federal funding is expended and associated programs
 6323 are implemented in full accordance with the U.S. Constitution, federal law, and public policy requirements.
 6324 These requirements include, but are not limited to those protecting free speech, religious liberty, public
 6325 welfare, the environment, and prohibiting discrimination. FEMA must communicate to the recipient all
 6326 relevant public policy requirements, including those in general appropriations provisions, and incorporate
 6327 them either directly or by reference in the terms and conditions of the award.⁴⁰⁰

6328 The recipient is responsible for complying with all requirements of the award. For all federal awards, this
 6329 includes the provisions of FFATA, which includes requirements on executive compensation, and also
 6330 requirements implementing the Act for the non-federal entity at 2 C.F.R. parts 25 and 170.⁴⁰¹

6331 FFATA requires recipients to register in the FFATA Subaward Reporting System (FSRS)⁴⁰² and report on all
 6332 awards and subawards equal to or greater than \$30,000.

6333 **Post Award Change in Scope of Work**

6334 The applicant must ensure that it uses PA funding only for eligible work as identified in the approved project.
 6335 The applicant may identify a need to change the scope of work. When this occurs, the applicant should
 6336 engage the recipient and FEMA as soon as it identifies a change to the scope of work to allow FEMA time to

³⁹⁹ 2 C.F.R. § 200.328.

⁴⁰⁰ 2 C.F.R. § 200.300(a)

⁴⁰¹ 2 C.F.R. § 200.300(b)

⁴⁰² [Federal Funding Accountability and Transparency Act Subaward Reporting System \(FSRS\)](#)

6337 review changes for eligibility and Environmental and Historic Preservation (EHP) and equity compliance
6338 requirements prior to commencement of work.

6339 A change requires the applicant to provide a written request to the recipient that includes a detailed
6340 justification and documentation to support the eligibility of the requested revision.⁴⁰³ If the request involves
6341 previously unreported damage, the applicant must also provide documentation demonstrating how the work
6342 is disaster-related. After completing the documentation, the recipient must forward the request to FEMA with
6343 its written recommendation.⁴⁰⁴ Table 32 Information to Support Scope of Work Changes indicates the
6344 information necessary for FEMA to evaluate a request for a change in scope of work.

6345 FEMA engages subject matter experts for technical assistance when necessary to reach a determination of
6346 whether the requested change is eligible for PA funding. Changes in the scope of work due to one of the
6347 following reasons are generally eligible:

- 6348 ▪ Alternate repair method is more cost-effective than the original proposed repair method;
- 6349 ▪ Original repair method is no longer technically feasible;
- 6350 ▪ Upgrades needed per codes and standards;⁴⁰⁵
- 6351 ▪ Increase in previously approved quantities due to errors or omissions;
- 6352 ▪ Discovery of hidden incident-related damage during construction; or
- 6353 ▪ The applicant wishes to pursue an Improved or Alternate Project.

6354 Change in scope of work requests should be submitted prior to the project's period of performance deadline.
6355 The applicant must provide the information described in Table 7: *Information to Support Scope of Work*
6356 *Changes* to support scope of work changes.

⁴⁰³ 44 C.F.R. § 206.204(e) and 2 C.F.R. § 200.308.

⁴⁰⁴ 44 C.F.R. § 206.204(e)

⁴⁰⁵ In accordance with the FEMA Recovery Interim Policy FP- 104-009-11 Version 2.1, Consensus-Based Codes, Specifications and Standards (CBCSS) for Public Assistance

6357 **Table 32. Information to Support Scope of Work Changes**

Information to Support Scope of Work Changes for Small and Large Projects	
Traditional Projects (Non-Alternative Procedures Projects)	
<ul style="list-style-type: none"> ▪ Detailed changes to scope of work ▪ Cost estimate ▪ Reason for changes <ul style="list-style-type: none"> ○ Cost estimate if more cost-effective repair method ○ If the original scope of work is not feasible, supporting documentation such as technical reports or surveys ○ If hidden damage (must be found during performance of eligible work): <ul style="list-style-type: none"> – Documentation substantiating the damage is related to the declared incident; and – Photographs documenting damage ▪ Construction timeline / project schedule <ul style="list-style-type: none"> ○ Time extension if scope of work change will result in a project delay causing work to be conducted outside the approved period of performance. 	

6358 **Scope of Work Changes on Permanent Work Alternative Procedures Projects**

6359 Once the scope of work is approved and a fixed-cost offer is accepted, the applicant must notify FEMA prior
 6360 to making scope of work changes that involve:

- 6361 ▪ Buildings or structures that are 45 years of age or older;
- 6362 ▪ Ground disturbing activities; or
- 6363 ▪ Work in or near waterways.

6364 With exception of buildings or structures that are 45 years of age or older, the Applicant does not need to
 6365 notify FEMA when it intends to make changes that substantially conform to the approved scope of work.
 6366 Changes that substantially conform include items, such as:

- 6367 ▪ Substitutions in material type (e.g., pre-cast concrete vs. steel beam, stainless steel vs galvanized
 6368 fasteners); or
- 6369 ▪ Interior floor plan reconfigurations (e.g., adding, moving or removing rooms/features).

6370 If the applicant wishes to change the scope of work to the extent that it changes the hazard mitigation or if
 6371 the scope of work of the hazard mitigation requires an adjustment for any other reason, such changes must
 6372 be approved within the 18-month deadline and the fixed-cost offer amount will be adjusted to reflect the
 6373 cost of the revised hazard mitigation scope of work.

Work Completion Deadlines

FEMA only provides PA funding for work completed and costs incurred⁴⁰⁶ within regulatory deadlines (see Figure 18. *Work Completion Deadlines*). The deadline for Emergency Work is six months from the declaration date. The deadline for Permanent Work is 18 months from the declaration date⁴⁰⁷, except Category I which has a deadline of 180 days from the declaration date. FEMA considers these timeframes to be a project's approved period of performance (POP).

Deadlines for Completion of Work	
Type of Work	Timeframe
Emergency Work	6 Months
Permanent Work	
Categories C-G	18 Months
Category I	180 Days

Figure 18. Work Completion Deadlines

Work completion is defined as the completion of all work associated with the approved scope of work including meeting all compliance requirements. It does not include invoice payments, warranty periods, or PA grant management and administration activities (e.g., compiling and submitting closeout documentation, financial reconciliation, requesting payment). If the applicant determines it needs additional time to complete work, it must submit a written request for a time extension to the recipient with the following information:

- Dates and justification for all previous time extensions; and⁴⁰⁸
- A detailed justification for the delay.⁴⁰⁹

The recipient has authority to extend project deadlines based on extenuating circumstances. Except for temporary relocation and Category I projects, the recipient may extend Emergency Work up to an additional 6 months and Permanent Work up to an additional 30 months (on a project-by-project basis).⁴¹⁰ Without FEMA's approval, extensions cannot exceed the time limit associated with the recipient's authority.⁴¹¹ The recipient must notify FEMA when it approves a time extension either via FEMA's Grants Portal system and reporting mechanisms or official correspondence.

FEMA has authority to extend individual project deadlines beyond these timeframes if extenuating circumstances justify additional time.⁴¹²

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);
- Inclement weather (site access prohibited or adverse impact on construction); and
- Lack of availability of materials, equipment, or contractors to complete work.

⁴⁰⁶ 2 C.F.R. § 200.309 and 44 C.F.R. § 206.204(d)(2).

⁴⁰⁷ 44 C.F.R. § 206.204(c)(1).

⁴⁰⁸ Ibid.

⁴⁰⁹ Ibid.

⁴¹⁰ 44 C.F.R. § 206.204(c)(2)(ii).

⁴¹¹ 44 C.F.R. § 206.204(c)(2).

⁴¹² 44 C.F.R. § 206.204(d).

6404 FEMA generally considers the following to be circumstances within the control of the applicant and not
6405 justifiable for a time extension:

- 6406 ▪ Delays resulting from an applicant’s untimely request for permits;
- 6407 ▪ Lack of funding;
- 6408 ▪ Change in administration or cost accounting system; and
- 6409 ▪ Compilation of cost documentation.

6410 Although FEMA only provides PA funding for work performed on or before the approved deadline, the
6411 applicant must still complete the approved SOW for funding to be eligible.⁴¹³ FEMA deobligates funding for
6412 any project that the applicant does not complete. If the applicant completes a portion of the approved SOW
6413 and the completed work is distinct from the uncompleted work, FEMA only deobligates funding for the
6414 uncompleted work. For example, if one project includes funds for three facilities and the applicant restores
6415 only two of the three facilities, FEMA only deobligates the amount related to the facility that the applicant did
6416 not restore.

6417 Audits

6418 Recipients and subrecipients are subject to federal and non-federal audits. Records are subject to audit by
6419 state or territorial government auditors, FEMA, the U.S. Department of Homeland Security Office of Inspector
6420 General (OIG), and the U.S. Government Accountability Office (GAO) or any of their authorized
6421 representatives.⁴¹⁴ FEMA may adjust project funding due to audit findings.

6422 Single Audits

6423 A recipient or subrecipient that expends \$750,000 or more in federal funds during its fiscal year must
6424 perform a single or program-specific audit.⁴¹⁵

6425 Government Accountability Office

6426 The Government Accountability Office (GAO) is the investigatory arm of Congress and is under the direction
6427 of the Comptroller General of the United States. GAO is an independent, nonpartisan agency that
6428 investigates how the federal government spends taxpayer dollars. Its mission is to help improve the
6429 performance and accountability of the federal government. Although the GAO usually audits FEMA programs,
6430 it has authority to audit any project.

6431 Office of the Inspector General

6432 The Department of Homeland Security’s Office of Inspector General (OIG) conducts independent audits and
6433 investigations on FEMA programs, operations, activities, and functions; how recipients and subrecipients
6434 expend federal funds; and oversight of non-federal audits such as single audits. The OIG evaluates activities

⁴¹³ 44 C.F.R. § 206.204(d)(2).

⁴¹⁴ 2 C.F.R. § 200.337.

⁴¹⁵ 2 C.F.R. § 200.501.

6435 to identify, deter, and address fraud, waste, and abuse. The OIG has authority to audit any project, including
6436 Alternative Procedures Projects.

6437 **REPORT FRAUD**

6438 FEMA award recipients and subrecipients play a critical role in helping to identify fraud and are highly
6439 encouraged to report suspicious activities at any time during the procurement process by contacting:

- 6440 ▪ The FEMA Fraud and Investigation Division, FEMA-OCSO-Tipline@fema.dhs.gov, 1-866-223-0814
- 6441 ▪ The DHS OIG Hotline, <https://hotline.oig.dhs.gov/#step-1>, 1-800-323-8603
- 6442 ▪ FEMA Suspension and Debarment, femas&d@fema.dhs.gov
- 6443 ▪ U.S. Department Justice National Center for Disaster Fraud, [https://www.justice.gov/disaster-](https://www.justice.gov/disaster-fraud/ncdf-disaster-complaint-form)
6444 [fraud/ncdf-disaster-complaint-form](https://www.justice.gov/disaster-fraud/ncdf-disaster-complaint-form), 1-866-223-0814

6445 **FEMA Office of Equal Rights**

6446 FEMA's Office of Equal Rights (OER) has the authority to conduct investigations and compliance reviews
6447 based on discrimination. OER has the authority to request and review documentation related to programs
6448 receiving FEMA financial assistance and FEMA programs and has monitoring and oversight requirements in
6449 connection with recipient compliance with federal civil rights laws. OER conducts investigations on
6450 complaints received from the public alleging civil rights violations from FEMA, FEMA programs, and
6451 recipients of FEMA financial assistance. OER may conduct a full investigation and render a decision on the
6452 complaint, or they may refer the complaint to another agency. OER conducts compliance reviews of FEMA
6453 programs and recipients of FEMA financial assistance to ensure compliance with civil rights and equity
6454 obligations. Prior to conducting a compliance review, OER seeks to provide technical assistance related to
6455 civil rights, as its goal is to ensure equity in every FEMA and FEMA funded program.

6456 **Recovery of Improper Payments**

6457 FEMA conducts audit assessments on drawdowns to recover payments identified as improper in accordance
6458 with the [Payment Integrity Information Act \(PIIA\)](#). In 2019, FEMA implemented the Validate as You Go
6459 (VAYGo) review process for several major disaster declarations in an effort to comply with improper payment
6460 reporting requirements and to reduce project closeout documentation requirements for recipients with
6461 proven effective internal control processes. In December 2020, FEMA expanded VAYGo to all PA and FMAG
6462 disasters. The goal of VAYGO is to improve internal control processes by consistently assessing payment
6463 error rates to identify potential payment integrity issues. FEMA's [Validate as You Go \(VAYGo\) Public](#)
6464 [Assistance \(PA\) Grants guide](#) provides guidance on the implementation and delivery of the FEMA VAYGo
6465 grant payment review process.

Chapter 12: Final Reconciliation and Closeout

Phase VII is the final phase of PA Program delivery and includes closing projects (subawards), subrecipients, and recipients (PA prime awards). During Phase VII, timely submission of complete project-level information from the recipient facilitates efficient and effective closeout of the recipient's prime award.⁴¹⁶ For additional information on Phase VII Final Reconciliation and Closeout activities, refer to Program Delivery Guide.

Project Reconciliation and Closeout

FEMA requires timely and complete project-level information from the recipient as work is completed to facilitate efficient and effective closeout of the recipient's prime award. This section defines requirements for project-level closeout. To initiate project-level closeout, the subrecipient must inform the recipient that its project is complete and the date the work was completed.

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 Project based on an estimate and actual costs for completing the eligible scope of work (SOW) differ from the estimated amount. To close Small Projects, the recipient must submit a Small Project Completion Certification and certify that:

- The subrecipient completed the approved SOWs for all of its Small Projects in accordance with the FEMA-State/Territory/Tribe Agreement; and
- The recipient made all payments in accordance with the FEMA-State/Territory/Tribe agreement.⁴¹⁷

FEMA only adjusts the approved amount on individual Small Projects if one of the following conditions applies:

- The subrecipient did not complete the approved scope of work;
- FEMA approves a change in SOW, including any additional hazard mitigation;
- The subrecipient received funding not previously deducted to prevent a duplication of benefits (e.g., when actual insurance proceeds exceed the estimated amount deducted);
- When actual insurance proceeds are less than the estimated amount deducted;
- Errors or omissions;
- Hidden damage;
- Non-compliance with applicable laws, regulations, and executive orders; or
- Fraud, waste, or abuse.

In these cases, FEMA only adjusts the specific cost items affected.

⁴¹⁶ The language in this document supersedes the language in the December 2013 *Public Assistance Program Management and Grant Closeout Standard Operating Procedure* (SOP) 9570.14.

⁴¹⁷ 44 C.F.R. § 206.205(a).

NET SMALL PROJECT OVERRUN APPEAL REQUEST

The subrecipient may request additional funding if its combined actual cost of all its Small Projects exceeds the total amount obligated for all its Small Projects. FEMA refers to this as a Net Small Project Overrun (NSPO) appeal request. The subrecipient must submit a request through the appeal process, described in Chapter 2: *Appeal Rights and Requirements*, within 60 days of the latest work completion date of all its Small Projects.⁴¹⁸ If all of the subrecipient's Small Projects have not been obligated at that time, then the subrecipient has 60 days from the date FEMA obligated its last Small Project to submit an appeal. The appeal must include actual cost documentation for all approved Small Projects.⁴¹⁹ For more information regarding the NSPO appeal, see Chapter 2: *Appeal Rights and Requirements*.

SMALL PROJECT CLOSEOUT

If the subrecipient is not requesting an NSPO, the subrecipient must submit a certification of completion for all Small Projects to the recipient within 90 days of the last Small Project completion date, or the last approved completion deadline for all of its Small Projects, whichever is sooner. If work on the last Small Project was completed prior to obligation, the 90-day timeline begins on the date of obligation.

The recipient must submit certification of completion of its own Small Projects within 90 days of the latest Small Project work completion date, or the approved deadline of its last Small Project, whichever is sooner. If work on the last Small Project was completed prior to obligation, the 90-day deadlines begin on the date of obligation.⁴²⁰

Large Projects

With exception of Capped Projects, the final eligible amount for a Large Project is the actual documented cost incurred to complete the eligible scope of work.⁴²¹

The subrecipient must provide documentation to support the actual costs within 90 days of work completion.⁴²² If work on the project was completed prior to obligation, the 90-day timeline begins on the date of obligation. The recipient must submit a Large Project expenditure report and completion certification and must certify that⁴²³:

- All incurred costs are associated with the approved scope of work;
- The subrecipient completed all work in compliance with the FEMA-state/territory/tribe agreement and any relevant policies or regulations; and
- It made all payments in accordance with 2 C.F.R. § 200.305.

The recipient must submit its certification of the subrecipient's completion of each Large Project with the final claim for PA funding for the project and supporting documentation to FEMA within 180 days of the work

⁴¹⁸ 44 C.F.R. § 206.204(e)(2).

⁴¹⁹ 44 C.F.R. § 206.204(e).

⁴²⁰ 2 C.F.R. § 200.344.

⁴²¹ 44 C.F.R. § 206.205(b).

⁴²² 44 C.F.R. § 206.205(b)(1) and 2 C.F.R. § 200.344.

⁴²³ 44 C.F.R. § 206.205(b)(1).

6527 completion date or the project completion deadline, whichever occurs first.⁴²⁴ If work on the project was
 6528 completed prior to obligation, the 180-day deadline begins on the date of obligation. The recipient must
 6529 submit its certification for each of its own Large Projects within 180 days of the work completion date or the
 6530 project completion deadline, whichever occurs first. If work on a Large Project is complete prior to obligation,
 6531 the recipient’s certification and final payment of claim is due within 180-days from the date of obligation.

6532 At a minimum, Large Project closeout packages must include:

6533 **Table 33. Documentation to Support a Large Project Closeout Request**

Documentation to Support a Large Project Closeout Request
<ul style="list-style-type: none"> ▪ Final inspection report; ▪ Summary of scope of work performed; ▪ Summary of expenditures; ▪ Project-related documents to support claimed costs (e.g., invoices, timesheets, work orders, trip tickets, etc.), <i>if not previously provided</i>, including: <ul style="list-style-type: none"> ○ Force account labor ○ Force account equipment ○ Materials and supplies ○ Contracted work ▪ Procurement documentation, if applicable (e.g., advertisements, bid tabulations, evaluation) ▪ Mutual aid agreements; ▪ Insurance documentation (final Statement of Loss); ▪ Project-related correspondence with regulatory agencies; ▪ Change orders; ▪ Personnel pay policies; ▪ All codes and standards incorporated into the scope of work; ▪ Documentation to substantiate compliance with all terms and conditions of the award [e.g., Environmental and Historic Preservation (EHP) compliance documentation, equity for underserved communities' requirements, and any funding that may duplicate benefits.] ▪ Photos of completed project, required for Categories C-G.

6534

6535

6536 Prior to closing Large Projects, FEMA:

⁴²⁴ 2 C.F.R. § 200.344. FEMA allows 180 days based on the combined allowance of 90 days for the subrecipient and 90 days for the recipient.

- 6537 ▪ Verifies there are no outstanding appeals, audits, or arbitration cases;
- 6538 ▪ Reviews the invoices and other documentation related to the work performed to validate it was
- 6539 consistent with the approved SOW, including completion of any approved PA hazard mitigation; (not
- 6540 required at closeout if project was obligated at 100% complete based on actual costs).
- 6541 ▪ Determines whether the subrecipient completed the work within the approved deadline (FEMA limits
- 6542 reimbursement to costs incurred within the deadline)
- 6543 ▪ Ensures no duplication of funding exists (e.g., with insurance or costs in any other related Projects);
- 6544 ▪ Validates compliance with cost principles, including, but not limited to:
- 6545 ○ Equipment and property disposition;
- 6546 ○ Procurement and contracting (not required at closeout if project was obligated at 100% complete
- 6547 based on actual costs); and
- 6548 ○ Reasonableness of costs.
- 6549 ▪ Validates compliance with all terms and conditions of the award, including, but not limited to:
- 6550 ○ Code and standard requirements;
- 6551 ○ EHP requirements;
- 6552 ○ Civil rights and equity requirements; and
- 6553 ○ Insurance obtain and maintain requirements.

6554 If the work is 100% complete at the time the project is obligated, the following compliance reviews do not
6555 need to be repeated during closeout:

- 6556 ▪ Determining whether the subrecipient completed the work within the approved deadline;
- 6557 ▪ Procurement and contracting;
- 6558 ▪ Reasonableness of costs;
- 6559 ▪ Code and standard requirements; and
- 6560 ▪ EHP requirements.

6561 If FEMA obligated the project obligated at 100% complete based on actual costs, the reviews were
6562 completed prior to obligation, and therefore the reviews do not need to be repeated at closeout. If the
6563 project was not 100% complete at obligation, FEMA reviews and verifies the accuracy of the actual costs and
6564 evaluates and reconciles any cost overruns or underruns. FEMA uses the Public Assistance Sampling
6565 Procedure to review documentation supporting claims at closeout. For Projects with funding changes, FEMA
6566 prepares a project amendment and obligates additional funds or reduces funding based on actual costs to
6567 complete the eligible SOW. ⁴²⁵

6568 FEMA does not re-evaluate the cost-effectiveness of PA mitigation based on the final actual costs of the
6569 project and approved PA mitigation measures. If FEMA concludes during the review that the subrecipient did
6570 work not complete any the repair/restoration SOW, FEMA designates the project as an Improved Project,

⁴²⁵ 44 C.F.R. § 206.205(b)(2).

6571 reviews the completed SOW for EHP compliance, and, depending on the evaluation result, either de-
6572 obligates or caps funding at the original anticipated amount.⁴²⁶

6573 For Capped Projects, the subrecipient must provide documentation to support that it used the funds in
6574 accordance with the eligibility criteria described in Chapter 8: *Use of Capped Project Funds*.

6575 If the applicant did not comply with any of the conditions of the grant, FEMA may deobligate either all or a
6576 portion of the funding. Once FEMA completes its review and funding adjustments, FEMA closes the Project
6577 and notifies the recipient in writing.

6578 **Alternative Procedures for Permanent Work Projects**

6579 Work must be completed by the end of the approved Alternative Procedures Project work completion
6580 deadline and the recipient must certify that all incurred costs are associated with the approved SOW.
6581 Additionally, the recipient must certify that the subrecipient has completed all work in accordance with FEMA
6582 regulations and policies. The recipient must submit its certification to FEMA within 180 days of the
6583 subrecipient completing its last Alternative Procedures Project or the latest Alternative Procedure Project
6584 deadline, whichever occurs first, for the subrecipient to retain and use any excess funds.

6585 The closeout certification must include a final report of Alternative Procedures Project costs and
6586 documentation to support the following:

- 6587 ▪ Summary of actual work completed;
- 6588 ▪ Mitigation measures achieved, if applicable;
- 6589 ▪ Compliance with EHP requirements;
- 6590 ▪ Compliance with civil rights and equity requirements;
- 6591 ▪ Compliance with the obtain and maintain insurance requirement;
- 6592 ▪ Summary of total actual costs to complete the Alternative Procedure Projects;
- 6593 ▪ Compliance with federal procurement procedures; and
- 6594 ▪ Actual insurance proceeds received.

6595 Subrecipients do not need to track costs to specific work line items. Subrecipients only need to substantiate
6596 and certify that all claimed costs are related to the overall work deemed eligible for the Alternative Procedure
6597 Projects.

6598 **Subrecipients**

6599 The recipient needs to request that FEMA close each subrecipient once all of its respective Projects have
6600 been completed and closed for the disaster. The recipient may either request this in the same submittal as
6601 the subrecipient's last Project closeout request or may submit a separate request. The request should
6602 include a project completion certification report listing all of the subrecipient's Projects.

⁴²⁶ 44 C.F.R. § 206.203(d)(1).

6603 If all of the subrecipient's Projects are closed and there are no outstanding audits, FEMA closes the
6604 subrecipient and notifies the recipient in writing.

6605 **Stafford Act Section 705**

6606 Stafford Act Section 705 imposes a 3-year limit on FEMA's authority to recover payments made to state,
6607 local, tribal, and territorial (SLTT) government recipients and subrecipients unless there is evidence of
6608 fraud.⁴²⁷ FEMA must provide notice of intent to recover payments within 3 years from the date that the
6609 recipient submitted the certification of project completion to FEMA. Section 705 does not apply to private
6610 nonprofits (PNP). Section 705 also prohibits FEMA from recovering payments for a project within the 3-year
6611 statute of limitations if the recipient or subrecipient meet certain criteria.⁴²⁸ To ensure consistent application
6612 of the provisions contained in Section 705, FEMA issued Recovery Policy (FP 205-081-2), *Stafford Act*
6613 *Section 705, Disaster Grant Closeout Procedures*, which describes the limitations and requirements in
6614 detail.⁴²⁹

6615 **Public Assistance Award Closeout**

6616 The recipient must submit its final Federal Financial Report (SF-425) with a written request to close the PA
6617 award. FEMA and the recipient certify that all work was completed, all eligible costs have been reimbursed,
6618 and financially reconciled. The PA program is programmatically closed when FEMA ensures that all PA
6619 Projects awarded for the incident met statutory and regulatory requirements. For FEMA to close the PA
6620 award, the following conditions must be met:

- 6621 ▪ FEMA has issued final determinations on all appeals;
- 6622 ▪ FEMA has obligated all eligible PA funding;
- 6623 ▪ All recipient and subrecipient projects are closed;
- 6624 ▪ The recipient has passed through all obligated funds appropriately and submitted its final expenditure
6625 report to FEMA;
- 6626 ▪ FEMA has adjusted the funding level for the program, as appropriate; and
- 6627 ▪ Both FEMA and the recipient have completed all administrative actions related to the PA Program.

6628 The recipient must liquidate all obligations within 120 days of the end of the prime award period of
6629 performance.

6630 **Documentation Retention Requirements**

6631 Subrecipients must maintain all source documentation for each Project⁴³⁰ for 3 years after the date of
6632 transmission of the final expenditure report for project completion as certified by the recipient.⁴³¹ The
6633 recipient must keep all financial and program documentation for 3 years after the date it submits the final

⁴²⁷ Stafford Act § 705(a)(1)(2), 42 U.S.C. § 5205.

⁴²⁸ Stafford Act § 705(c)(1)(2)(3), 42 U.S.C. § 5205.

⁴²⁹ [Stafford Act Section 705, Disaster Grant Closeout Procedures FEMA Policy 205-081-2, Version 2.](#)

⁴³⁰ 2 C.F.R. § 200.302.

⁴³¹ Stafford Act § 705(b)(1), 42 U.S.C. § 5205. [Stafford Act Section 705, Disaster Grant Closeout Procedures FEMA Policy 205-081-2, Version 2.](#)

6634 SF-425. There are several exceptions to this timeframe that may require longer retention periods, including
6635 exceptions relating to real property and equipment disposition, audits, and litigation.⁴³² Additionally, SLTT
6636 government laws may require longer retention periods.

⁴³² 2 C.F.R. § 200.334.

Abbreviations and Acronyms

6637

6638	ACSR	Aluminum Conductor Steel Reinforced
6639	ADA	Americans with Disabilities Act
6640	BCA	Benefit-Cost Analysis
6641	BFE	Base Flood Elevation
6642	BIA	Bureau of Indian Affairs
6643	CAA	Clean Air Act
6644	CATEX	Categorical Exclusion
6645	CBRA	Coastal Barrier Resources Act
6646	CBRS	Coastal Barrier Resource System
6647	CDC	Centers for Disease Control and Prevention
6648	CEF	Cost Estimating Format
6649	CERCLA	Comprehensive Environmental Response Compensation and Liability Act
6650	C.F.R.	Code of Federal Regulations
6651	CRC	Consolidated Resource Center
6652	CWA	Clean Water Act
6653	CZMA	Coastal Zone Management Act
6654	DDD	Damage Description and Dimensions
6655	DFA	Direct Federal Assistance
6656	DMP	Debris Management Plan
6657	EA	Environmental Assessment
6658	EHP	Environmental and Historic Preservation
6659	EIS	Environmental Impact Statement
6660	EMAC	Emergency Management Assistance Compact
6661	EO	Executive Order
6662	EOC	Emergency Operation Center
6663	EPA	U.S. Environmental Protection Agency
6664	ER	Emergency Relief (Program)
6665	ERFO	Emergency Relief for Federally Owned Roads (Program)
6666	ESA	Endangered Species Act
6667	EWP	Emergency Watershed Protection Program
6668	FCO	Federal Coordinating Officer
6669	FEMA	Federal Emergency Management Agency

6670	FHWA	Federal Highway Administration
6671	FIRM	Flood Insurance Rate Map
6672	FMAG	Fire Management Assistance Grant
6673	FP	FEMA Recovery Policy
6674	FSR	Financial Status Report
6675	GPS	Global Positioning System
6676	HEPA	High-Efficiency Particulate Air
6677	HENTF	Heritage Emergency National Task Force
6678	HHS	U.S. Department of Health and Human Services
6679	HHW	Household hazardous waste
6680	HMA	Hazard Mitigation Assistance
6681	HMGF	Hazard Mitigation Grant Program
6682	HMP	Hazard Mitigation Proposal
6683	HUD	U.S. Department of Housing and Urban Development
6684	HVAC	Heating, ventilation, and air conditioning
6685	IBD	Infrastructure Branch Director
6686	IA	Individual Assistance
6687	IHP	Individuals and Households Program
6688	JFO	Joint Field Office
6689	JRO	Joint Recovery Office
6690	NCEI	National Centers for Environmental Information
6691	NDRF	National Disaster Recovery Framework
6692	NEPA	National Environmental Policy Act
6693	NFIP	National Flood Insurance Program
6694	NHPA	National Historic Preservation Act
6695	NMFS	National Marine Fisheries Service
6696	NOAA	National Oceanic and Atmospheric Administration
6697	NRCS	Natural Resources Conservation Service
6698	NRF	National Response Framework
6699	NWS	National Weather Service
6700	OER	Office of Equal Rights
6701	PA	Public Assistance
6702	PAGS	Public Assistance Group Supervisor
6703	PAPPG	Public Assistance Program and Policy Guide
6704	PDA	Preliminary Damage Assessment

6705	PDG	Program Delivery Guide
6706	PNP	Private Nonprofit
6707	PDMG	Program Delivery Manager
6708	PDTFL	Program Delivery Task Force Leader
6709	POP	Period of Performance
6710	PPDR	Private Property Debris Removal
6711	RA	Regional Administrator
6712	RCRA	Resource Conservation and Recovery Act
6713	RIP	Rehabilitation and Inspection Program
6714	RFI	Request for Information
6715	RFP	Request for Proposal
6716	ROW	Right-of-Way
6717	RPA	Request for Public Assistance
6718	RSM	Recovery Scoping Meeting
6719	RTM	Recovery Transition Meeting
6720	RUS	Rural Utilities Service
6721	SBA	U.S. Small Business Administration
6722	SFHA	Special Flood Hazard Area
6723	SHPO	State Historic Preservation Officer
6724	SI	Site Inspector
6725	SLTT	State, local, tribal, and territorial
6726	SOW	Scope of Work
6727	STATEX	Statutory Exclusion
6728	T&M	Time and materials
6729	TFL	Task Force Leader
6730	THPO	Tribal Historic Preservation Officer
6731	USACE	U.S. Army Corps of Engineers
6732	U.S.C.	United States Code
6733	USCG	U.S. Coast Guard
6734	USDA	U.S. Department of Agriculture
6735	USFWS	U.S. Fish and Wildlife Service
6736	WFPO	Watershed and Flood Prevention Operations

References and Resources

Public Assistance Program References

- 6737
- 6738
- 6739 ▪ [Assistance for Governments and Private Non-Profits After a Disaster](#)
- 6740 ▪ [Archived Policy Documents](#)
- 6741 ▪ [Archived Publications](#)
- 6742 ▪ [Building Community Resilience with Nature-Based Solutions](#)
- 6743 ▪ [Cost Estimating Format \(CEF\) for Large Projects Standard Operating Procedure \(FEMA SOP 9570.8\)](#)
- 6744 ▪ [Preliminary Damage Assessment Guide](#)
- 6745 ▪ [Debris Estimating Field Guide \(FEMA 329\)](#)
- 6746 ▪ [Direct Reimbursement for Host-State Evacuation and Sheltering Costs \(FEMA SOP 9570.1\)](#)
- 6747 ▪ [Environmental and Historic Preservation Directive \(FEMA Directive 108-1\)](#)
- 6748 ▪ [Environmental and Historic Preservation Instruction \(FEMA Instruction 108-1-1\)](#)
- 6749 ▪ [Environmental and Historic Preservation \(EHP\) Fact Sheet for Debris Removal Activities](#)
- 6750 ▪ [Equipment Rates](#)
- 6751 ▪ [Federal Flood Risk Management Standard](#)
- 6752 ▪ [Infectious Disease Event Fact Sheet \(FP 104-009-001\)](#)
- 6753 ▪ [FEMA Recovery Interim Policy, Consensus-Based Codes, Specifications and Standards for Public Assistance \(FP 104-009-11\)](#)
- 6754
- 6755 ▪ [FEMA Recovery Policy, Public Assistance Management Costs \(Interim\) \(FP 104-11-2\)](#)
- 6756 ▪ [Field Manual \(Procurement Information for FEMA Public Assistance Award Recipients and Subrecipients\)](#)
- 6757 ▪ [Mission Assignments for ESF #10 \(FEMA 9523.8\)](#)
- 6758 ▪ [Small Business Administration Loans](#)
- 6759 ▪ [Recipient-Led Public Assistance Guide](#)
- 6760 ▪ [Strategic Funds Management \(FEMA SOP 9570.24\)](#)
- 6761 ▪ [Public Assistance Building Back Better Fact Sheet](#)
- 6762 ▪ [Public Assistance Management Costs Interim Policy Fact Sheet](#)
- 6763 ▪ [Public Assistance Management Costs Standard Operating Procedures](#)
- 6764 ▪ [Public Assistance Policy on Insurance \(FP 206-086-1\)](#)
- 6765 ▪ [Public Assistance Policy, Stafford Act Section 705, Disaster Grant Closeout Procedures \(FP 205-081-2\)](#)
- 6766 ▪ [Public Assistance Recovery of Improper Payments Standard Operating Procedures \(FEMA SOP 9570.16\)](#)
- 6767 ▪ [Recommended Post Earthquake Evaluation and Repair Criteria for Welded Steel Moment Frame Buildings \(FEMA 352\)](#)
- 6768
- 6769 ▪ [Safe Rooms for Tornadoes and Hurricanes, Guidance for Community and Residential Safe Rooms \(FEMA P-361\)](#)
- 6770

6771 Public Assistance Forms and Templates

- 6772 ▪ [Public Assistance FEMA Forms \(FF\)](#)
- 6773 ▪ [Application for Federal Assistance and Assurances \(SF-424\)](#)
- 6774 ▪ [Federal Financial Report \(SF-425\)](#)

6775 Statutes

- 6776 ▪ [The Robert T. Stafford Disaster Relief and Emergency Assistance Act, as Amended \(Stafford Act\)](#)
- 6777 ▪ [Americans with Disabilities Act \(ADA\)](#)

6778 Code of Federal Regulations

- 6779 ▪ [2 C.F.R. Part 200, Uniform Administrative Requirements, Cost Principles, and Audit](#)
- 6780 ▪ [7 C.F.R. § 1730.25, Corrective action \(Rural Utilities Service \[RUS\] borrowers only\)](#)
- 6781 ▪ [15 C.F.R. Part 774, The Commerce Control List](#)
- 6782 ▪ [22 C.F.R. Part 121, The United States Munitions List](#)
- 6783 ▪ [40 C.F.R. Part 261, Identification and Listing of Hazardous Waste](#)
- 6784 ▪ [40 C.F.R. Parts 1500–1508, NEPA Regulations](#)
- 6785 ▪ [44 C.F.R. Emergency Management and Assistance](#)
- 6786 ▪ [44 C.F.R. Part 9, Floodplain Management and Protection of Wetlands](#)
- 6787 ▪ [44 C.F.R. Part 201, Mitigation Planning](#)
- 6788 ▪ [44 C.F.R. Part 204, Fire Management Assistance Grant \(FMAG\) Program](#)
- 6789 ▪ [44 C.F.R. Part 206, Federal Disaster Assistance](#)
- 6790 ▪ [48 C.F.R. Subpart 2.1, Federal Acquisition Regulation](#)

6791 Environmental Protection Laws

- 6792 ▪ [Clean Air Act \(CAA\)](#)
- 6793 ▪ [Clean Water Act \(CWA\)](#)
- 6794 ▪ [Coastal Barrier Resources Act \(CBRA\)](#)
- 6795 ▪ [John H. Chafee Coastal Barrier Resources System \(CBRS\)](#)
- 6796 ▪ [Coastal Zone Management Act \(CZMA\)](#)
- 6797 ▪ [Comprehensive Environmental Response Compensation and Liability Act \(CERCLA\)](#)
- 6798 ▪ [Endangered Species Act \(ESA\)](#)
- 6799 ▪ [Farmland Protection Policy Act \(FPPA\)](#)
- 6800 ▪ [Fish and Wildlife Coordination Act](#)
- 6801 ▪ [Magnuson-Stevens Fishery Conservation and Management Act](#)

- 6802 ▪ Migratory Bird Treaty Act
- 6803 ▪ National Environmental Policy Act (NEPA)
- 6804 ▪ Resource Conservation and Recovery Act (RCRA)
- 6805 ▪ Wild and Scenic Rivers Act

6806 **Executive Orders**

- 6807 ▪ EO 11988, Floodplain Management
- 6808 ▪ EO 11990, Protection of Wetlands
- 6809 ▪ EO 12898, Environmental Justice
- 6810 ▪ EO 13690, Establishing a Federal Flood Risk Management Standard and a Process for Further Soliciting and Considering Stakeholder Input
- 6811
- 6812 ▪ EO 13717, Establishing a Federal Earthquake Risk Management Standard
- 6813 ▪ EO 13985, Advancing Racial Equity and Support for Underserved Communities Through the Federal Government
- 6814
- 6815 ▪ EO 13990, Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis
- 6816
- 6817 ▪ EO 14008, Tackling the Climate Crisis at Home and Abroad
- 6818 ▪ EO 14096, Revitalizing Our Nation’s Commitment to Environmental Justice for All
- 6819 ▪

6820 **Historic Preservation Laws and Tools**

- 6821 ▪ Advisory Council on Historic Preservation
- 6822 ▪ American Institute for Conservation Code of Ethics and Guidelines for Practice
- 6823 ▪ Heritage Emergency National Task Force (HENTF)
- 6824 ▪ National Historic Preservation Act (NHPA)
- 6825 ▪ National Register of Historic Places

6826 **Federal Emergency Management Agency References**

- 6827 ▪ FEMA
- 6828 ▪ FEMA Stafford Act Declaration Process Fact Sheet
- 6829 ▪ Fire Management Assistance Grants (FMAG) Program
- 6830 ▪ FMAG Program Guide (FEMA P-954)
- 6831 ▪ Federal Insurance and Mitigation Administration (FIMA)
- 6832 ▪ FIMA Policy (FP 306-112-1)
- 6833 ○ National Flood Insurance Program (NFIP)
- 6834 ○ Hazard Mitigation Assistance (HMA) Programs

- 6835 ○ HMA Guidance
- 6836 ○ Hazard Mitigation Grant Program (HMGP)
- 6837 ○ State Hazard Mitigation Officer
- 6838 ▪ Individual Assistance (IA) Programs
- 6839 ○ Individuals and Households Program (IHP)
- 6840 ▪ National Disaster Recovery Framework (NDRF)
- 6841 ▪ National Response Framework (NRF)

6842 **Other Federal Agencies**

- 6843 ▪ Bureau of Indian Affairs (BIA)
- 6844 ▪ Federal Highway Administration (FHWA)
- 6845 ▪ FHWA Emergency Relief Program (ERP)
- 6846 ▪ National Oceanic and Atmospheric Administration (NOAA)
- 6847 ▪ National Marine Fisheries Service (NMFS)
- 6848 ▪ National Centers for Environmental Information (NCEI), formerly known as the National Climatic Data
- 6849 Center (NCDC)
- 6850 ▪ NWS Cooperative Network Stations
- 6851 ▪ Natural Resources Conservation Service (NRCS)
- 6852 ▪ NRCS Emergency Watershed Protection Program (EWP)
- 6853 ▪ National Weather Service (NWS)
- 6854 ▪ U.S. Army Corps of Engineers (USACE)
- 6855 ▪ USACE Rehabilitation and Inspection Program (RIP)
- 6856 ▪ U.S. Coast Guard (USCG)
- 6857 ▪ U.S. Department of Agriculture (USDA)
- 6858 ▪ Farm Service Agency
- 6859 ▪ U.S. Department of Health and Human Services (HHS)
- 6860 ▪ Centers for Disease Control and Prevention (CDC)
- 6861 ▪ U.S. Department of Homeland Security (DHS)
- 6862 ▪ DHS Office of Inspector General (OIG)
- 6863 ▪ U.S. Department of Housing and Urban Development (HUD)
- 6864 ▪ Community Development Block Grant Program (CDBG)
- 6865 ▪ U.S. Department of Labor
- 6866 ▪ U.S. Environmental Protection Agency (EPA)
- 6867 ▪ U.S. Fish and Wildlife Service (USFWS)
- 6868 ▪ U.S. Government Accountability Office (GAO)

Terms and Definitions

6869

6870 **Acquisition cost** - The net invoice price of equipment including the cost of modifications, attachments,
6871 accessories, or auxiliary apparatus necessary to make it usable for the purpose it was acquired. Other
6872 charges such as the cost of installation, transportation, taxes, duty, or protective in-transit insurance, shall
6873 be included or excluded from the unit acquisition cost in accordance with the recipient's regular accounting
6874 practices.

6875 **Alternate project** - A project where an applicant determines that the public welfare is not best served by
6876 restoring the function of the damaged facility and request FEMA's approval to apply PA funding toward a
6877 different facility (or facilities).

6878 **Animal** - Any living or dead member of the animal kingdom, including any mammal, fish, bird, amphibian,
6879 reptile, mollusk, crustacean, arthropod, or other invertebrate or any part thereof.

6880 **Applicant** - A non-federal entity submitting an application for assistance under the recipient's federal award.

6881 **Assistance Animal** - An animal that works, provides assistance, or performs tasks for the benefit of a person
6882 with a disability, or provide emotional support that alleviates identified symptoms or effects of a person's
6883 disability. Although dogs are the most common type of assistance animal, other animals can also be
6884 assistance animals.

6885 **Assisting entity** - The entity providing mutual aid assistance to a requesting entity pursuant to a local or
6886 statewide mutual aid agreement.

6887 **Award (federal)** - The financial assistance that a non-federal entity receives either directly from a federal
6888 awarding agency or indirectly from a pass-through entity; or the cost-reimbursement contract under the
6889 Federal Acquisition Regulation that a non-federal entity receives directly from a federal awarding agency or
6890 indirectly from a pass-through entity.

6891 **Budgeted (labor)** - Employee labor costs an applicant budgets for and incurs regardless of a disaster
6892 occurring.

6893 **Coastal zone** - The coastal waters (including the lands therein and thereunder) and the adjacent shorelands
6894 (including the waters therein and thereunder), strongly influenced by each other and in proximity to the
6895 shorelines of coastal States, including islands, transitional and intertidal areas, salt marshes, wetlands, and
6896 beaches. This includes areas in Great Lakes waters per 16 U.S.C. § 1453. Definitions (Section 304).

6897 **Cost-to-charge ratio** - A ratio established by Medicare to estimate a medical service provider's actual cost in
6898 relation to its charges.

6899 **Critical action** - An action for which even a slight chance of flooding is too great. The minimum floodplain of
6900 concern for critical actions is the 0.2% annual chance floodplain (also referred to as the critical action
6901 floodplain).

6902 **Current fair market value** - The value of equipment and supplies determined by selling them in a competitive
6903 market or by researching advertised prices for similar items on the used market.

6904 **Duplication of Benefits** - Funding received from two sources for the same item of work.

6905 **Educational institution** - Any elementary school as defined by section 801(c) of the Elementary and
6906 Secondary Education Act of 1965; any secondary school as defined by section 801(h) of the Elementary and
6907 Secondary Education Act of 1965; or any institution of higher education as defined by section 1201 of the
6908 Higher Education Act of 1965.

6909 **Emergency** - Any occasion or instance for which the President determines federal assistance is needed to
6910 supplement SLTT efforts and capabilities to save lives and to protect property and public health and safety,
6911 or to lessen or avert the threat of a catastrophe in any part of the United States.

6912 **Emergency Protective Measure** - An action taken by a community before, during, and after an incident to
6913 save lives, protect public health and safety, and prevent damage to improved public and private property.

6914 **Emergency Work** - Work that must be done immediately to save lives, protect improved property, protect
6915 public health and safety, or avert or lessen the threat of a major disaster.

6916 **Equipment** - Tangible personal property, including information technology systems, having a useful life of
6917 more than 1 year and a per-unit acquisition cost that equals or exceeds the lesser of the capitalization level
6918 established by the non-federal entity for financial statement purposes, or \$5,000.

6919 **Equity** -

6920 **Equity** - The consistent and systematic fair, just, and impartial treatment of all individuals, including
6921 individuals who belong to underserved communities that have been denied such treatment, such as Black
6922 and African American, Hispanic and Latino, Native American, Alaska Native and Indigenous persons, Asian
6923 Americans, Native Hawaiian and Pacific Islanders, Middle Eastern and North African and other persons of
6924 color; members of religious minorities, lesbian, gay, bisexual, transgender, and queer (LGBTQIA+) persons,
6925 persons with disabilities; persons who live in rural areas; and persons otherwise adversely affected by
6926 poverty or inequality.

6927 **Exempt (labor)** - Refers to employees who are exempt from the overtime pay requirements set forth in the
6928 Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.).

6929 **Facility** - Any publicly or privately-owned building, works, system or equipment—built or manufactured—or an
6930 improved and maintained natural feature. Land used for agricultural purposes is not a facility.

6931 **Federal agency** - Any department, independent establishment, government corporation, or other agency of
6932 the executive branch of the federal government, including the United States Postal Service, but not including
6933 the American National Red Cross.

6934 **Federal share** - The portion of the total project costs that are paid by federal funds.

- 6935 **Final expenditure report** - The report the recipient submits to FEMA for all of a subrecipient's Projects,
6936 certifying that the grant terms and conditions have been met and project costs are reconciled.
- 6937 **Flood control work** - A structure such as a levee, flood wall, flood control channel, or water control structure
6938 that was designed and constructed to have appreciable effects in preventing damage by irregular and
6939 unusual rises in water level.
- 6940 **Flood fighting** - An activity or measure (e.g., sandbagging, buttressing) intended to prevent or stop flooding,
6941 at levels above flood stage, or to prevent structural failure.
- 6942 **Force account** - An applicant's own labor forces and equipment.
- 6943 **Fringe benefits** - A percentage of the actual wages that pays for employee benefits.
- 6944 **Full-Time (labor)** - The normal number of work hours performed by an employee per pay period, as set by the
6945 applicant's [1] eligible pre-disaster written labor policy or [2] non-discretionary, uniformly applied pay rates.
- 6946 **Hazard mitigation** - Any cost-effective measure that will reduce the potential for damage to a facility from a
6947 disaster event.
- 6948 **Hazardous tree** - A hazardous tree is a standing tree that presents a hazard to the public due to conditions
6949 such as, but not limited to, deterioration or physical damage to the root system, trunk, stem or limbs, and
6950 the direction and lean of the tree per the Occupational Safety and Health Standards, Title 29 Code of
6951 Federal Regulations (29 C.F.R.) § 1910.266(c).
- 6952 **Immediate threat** - The threat of additional damage or destruction from an event that can reasonably be
6953 expected to occur within 5 years.
- 6954 **Improved project** - A project that restores the pre-disaster function of a facility and incorporates
6955 improvements or changes to the pre-disaster design.
- 6956 **Improved property** - A structure, facility, or item of equipment that was built, constructed, or manufactured.
6957 Land used for agricultural purposes is not improved property.
- 6958 **Incident period** - The time span during which the disaster-causing incident occurs.
- 6959 **Indirect cost** - A cost incurred for a common or joint purpose benefiting more than one cost objective that is
6960 not readily assignable to the cost objectives specifically benefited.
- 6961 **Inland zone** - The environment inland of the coastal zone excluding the Great Lakes and specified ports and
6962 harbors on inland rivers. Precise boundaries are identified in federal regional contingency plans.
- 6963 **Large project** - A project for which the final obligated (federal and non-federal) amount is equal to or *greater*
6964 than the annually adjusted cost threshold for small project grants.

6965 **Local government** - A county, municipality, city, town, township, local public authority, school district, special
6966 district, intrastate district, council of governments (regardless of whether the council of governments is
6967 incorporated as a nonprofit corporation under state law), regional or interstate government entity, or agency
6968 or instrumentality of a local government; an Indian Tribe or authorized tribal organization, or Alaska Native
6969 village or organization that does not meet the definition of Indian Tribal Government; or a rural community,
6970 unincorporated town or village, or other public entity, for which an application for assistance is made by a
6971 state or political subdivision of a state.

6972 **Major disaster** - Any natural catastrophe (including any hurricane, tornado, storm, high water, wind-driven
6973 water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, or drought), or,
6974 regardless of cause, any fire, flood, or explosion, in any part of the United States, for which the President
6975 determines causes damage of sufficient severity and magnitude to warrant major disaster assistance under
6976 the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as Amended to supplement the efforts
6977 and available resources of SLTT governments and disaster relief organizations in alleviating the damage,
6978 loss, hardship, or suffering caused thereby.

6979 **Management cost** - Any indirect cost, any direct administrative cost, and any other administrative expense
6980 associated with a specific project under a major disaster or emergency.

6981 **Museum** - A facility that preserves and exhibits a documented collection of artistic, historic, scientific, or
6982 other objects.

6983 **Nature-based solutions** - Nature based solutions are sustainable planning, design, environmental
6984 management, and engineering practices that simultaneously provide benefits for people and the
6985 environment to build resilient communities and mitigate the impact of climate change. FEMA uses the term
6986 “nature-based solutions” to refer to an umbrella of strategies, including green infrastructure, bioengineering,
6987 and/or natural infrastructure. Other agencies may also use the terms “natural or nature-based features” or
6988 “engineering with nature,” which all fall under the term “nature-based solutions”.

6989 **Non-federal entity** - An institution of higher education, nonprofit organization, local government, Indian tribe,
6990 or state that carries out a federal award as a recipient or subrecipient.

6991 **Non-Exempt (labor)** - Refers to employees who are subject to the overtime pay requirements set forth in the
6992 Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.).

6993 **Overtime (labor)** - Time worked beyond an employee’s scheduled working hours, as set by the applicant’s
6994 pre-disaster written labor or pay policy.

6995 **Part-Time (labor)** - The normal number of work hours performed by an employee per pay period, as set by the
6996 applicant’s [1] eligible pre-disaster written labor policy or [2] non-discretionary, uniformly applied pay rates.

6997 **Pass-through entity** - A non-federal entity that provides a subaward to a subrecipient to carry out part of a
6998 federal program.

- 6999 **Period of performance** - The time during which the non-federal entity may incur new obligations to carry out
7000 the work authorized under the federal award.
- 7001 **Permanent (labor)** - A full-time or part-time employee working on a permanent and ongoing basis, as set by
7002 the applicant's written labor or pay policy.
- 7003 **Permanent work** - Restorative work that must be performed through repairs or replacement to restore an
7004 eligible facility on the basis of its pre-disaster design and current applicable codes and standards.
- 7005 **Personal property** - Property other than real property. It may be tangible, having physical existence, or
7006 intangible.
- 7007 **Pet (household)** - A domesticated animal that is traditionally kept in the home for pleasure rather than for
7008 commercial purposes, can travel in a commercial carrier, and can be housed in a temporary facility.
7009 Examples are dogs, cats, birds, rabbits, rodents, and turtles. Household pets do not include reptiles (except
7010 turtles), amphibians, fish, insects, arachnids, farm animals (including horses), or animals kept for racing
7011 purposes.
- 7012 **Pre-disaster** - In effect prior to the incident start date identified in the approved presidential disaster
7013 declaration.
- 7014 **Pre-disaster design** - The size or capacity of a facility as originally designed and constructed or subsequently
7015 modified by changes or additions to the original design. It does not mean the capacity at which the facility
7016 was being used at the time the major disaster occurred if different from the most recent designed capacity.
- 7017 **Pre-disaster function** - The function the facility was performing immediately prior to the disaster.
- 7018 **Private nonprofit organization (PNP)** - Any nongovernmental agency or entity that currently has an effective
7019 ruling letter from the U.S. Internal Revenue Service, granting tax exemption under Sections 501(c), (d), or (e)
7020 of the Internal Revenue Code, or satisfactory evidence from the State that the nonrevenue producing
7021 organization or entity is a nonprofit one organized or doing business under State law.
- 7022 **Private roads** - Roads that are not owned or operated by or otherwise the legal responsibility of a federal or
7023 SLTT entity (including orphan roads, roads in gated communities, homeowners' association roads, etc.).
- 7024 **PNP custodial care facility** - A building, structure, or system, including those for essential administration and
7025 support, that is used to provide institutional care for persons who require close supervision and some
7026 physical constraints on their daily activities for their self-protection, but do not require day-to-day medical
7027 care.
- 7028 **PNP educational facility** - Classrooms plus related supplies, equipment, machinery, and utilities of an
7029 educational institution necessary or appropriate for instructional, administrative, and support purposes.

- 7030 **PNP emergency facility** - A building, structure, equipment, or system used to provide emergency services,
7031 such as fire protection, ambulance, or rescue, to the general public, including the administrative and support
7032 facilities essential to the operation of such emergency facilities, even if not contiguous.
- 7033 **PNP medical facility** - A hospital, outpatient facility, rehabilitation facility, or facility for long-term care as such
7034 terms are defined in Section 645 of the Public Health Service Act (42 U.S.C. 291o) and any similar facility
7035 offering diagnosis or treatment of mental or physical injury or disease, including the administrative and
7036 support facilities essential to the operation of such medical facilities even if not contiguous.
- 7037 **Project** - A logical grouping of work required as a result of the declared major disaster or emergency.
- 7038 **Public entity** - An organization formed for a public purpose whose direction and funding are provided by one
7039 or more political subdivisions of the state.
- 7040 **Public facility** - Any of the following facilities owned by an SLTT government: any flood control, navigation,
7041 irrigation, reclamation, public power, sewage treatment and collection, water supply and distribution,
7042 watershed development, or airport facility; any non-federal aid, street, road, or highway; and any other public
7043 building, structure, or system, including those used for educational, recreational, or cultural purposes; or any
7044 park.
- 7045 **Real property** - Land, including land improvements, structures, and appurtenances thereto, but excludes
7046 moveable machinery and equipment.
- 7047 **Recipient** - A non-federal entity that receives a federal award directly from a federal awarding agency to carry
7048 out an activity under a federal program.
- 7049 **Reasonable cost** - A cost is reasonable if, in its nature and amount, it does not exceed that which would be
7050 incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur
7051 the cost. In other words, a reasonable cost is a cost that is both fair and equitable for the type of work being
7052 performed.
- 7053 **Rehabilitation facility** - A facility that primarily provides diagnosis and treatment for rehabilitation of injuries,
7054 disabilities, or illness. (Consistent with the definition of “comprehensive outpatient rehabilitation facility” in
7055 42 U.S.C. § 1395x(cc)(2)).
- 7056 **Request for Public Assistance** - The form a public entity or PNP organization uses to apply for assistance
7057 under the Public Assistance Program.
- 7058 **Requesting entity** - An entity that requests mutual aid assistance from an assisting entity for work resulting
7059 from a declared fire, emergency, or major disaster within its legal jurisdiction.
- 7060 **Retreat** - Establishments that promote health and wellbeing by providing services for the preservation and
7061 maintenance of physical, mental, and emotional health.

- 7062 **Resilience** - The ability to prepare for threats and hazards, adapt to changing conditions and withstand and
7063 recover rapidly from disruptions.
- 7064 **Scope of work** - A description of the eligible work necessary to be done immediately to address an immediate
7065 threat or to restore a facility to its pre-disaster design, function, and capacity and to current applicable
7066 standards, documented in the project and reflecting the damage description and dimensions. A scope of
7067 work may also be documented for an alternate or improved project or with a PA hazard mitigation proposal.
- 7068 **Service animal** - A dog that is individually trained to do work or perform tasks for people with disabilities or
7069 access and functional needs.
- 7070 **Simplified acquisition threshold** - The dollar amount below which a non-federal entity may purchase property
7071 or services using small purchase methods. The simplified acquisition threshold is set by the Federal
7072 Acquisition Regulation at 48 C.F.R. Subpart 2.1 (Definitions) and in accordance with 41 U.S.C. 1908. As of
7073 the publication of this part, the simplified acquisition threshold is \$150,000, but this threshold is periodically
7074 adjusted for inflation.
- 7075 **Small project** - A project for which the final obligated (federal and non-federal) amount is less than the
7076 annually adjusted cost threshold for small project grants.
- 7077 **Special flood hazard area** - The land area subject to inundation during a flood having a 1 percent chance of
7078 being equaled or exceeded in a given year (also referred to as the base flood or 100-year flood). Special
7079 Flood Hazard Areas are shown on FIRMs published by FEMA.
- 7080 **State** - Any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, U.S. Virgin
7081 Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.
- 7082 **Subaward** - An award provided by a pass-through entity to a subrecipient for the subrecipient to carry out
7083 part of a federal award received by the pass-through entity. It does not include payments to a contractor or
7084 payments to an individual that is a beneficiary of a federal program.
- 7085 **Subrecipient** - A non-federal entity that receives a subaward from a pass-through entity to carry out part of a
7086 federal program. It does not include an individual that is a beneficiary of such program. A subrecipient may
7087 also be a recipient of other federal awards directly from a federal awarding agency.
- 7088 **Substantial damage** - Damage of any origin sustained by a structure whereby the cost of restoring the
7089 structure to its before damaged condition would equal or exceed 50 percent of the market value of the
7090 structure before the damage occurred.
- 7091 **Supply** -Any tangible personal property other than that meeting the definition of equipment.
- 7092 **Temporary (labor)** - A full-time or part-time employee working on a permanent and ongoing basis, as set by
7093 the applicant's written labor or pay policy.

7094 **Tribal nation** - Any federally recognized governing body of an Indian or Alaska Native Tribe, band, nation,
7095 pueblo, village, or community that the Secretary of the Interior acknowledges to exist as an Indian Tribe
7096 under the Federally Recognized Tribe List Act of 1994, Title 25 of the U.S. Code (U.S.C.) 479a. This does not
7097 include Alaska Native corporations, the ownership of which is vested in private individuals.

7098 **Trust land** - Land, the title to which is held by the United States in trust for an Indian tribe or individual, or
7099 which is held by an Indian tribe or individual subject to a restriction by the United States against alienation.
7100 "Trust or restricted interest in land" or "trust or restricted interest in a parcel of land" means an interest in
7101 trust land. Collectively referred to as "trust lands."

7102 **Underserved communities** - Populations sharing a particular characteristic, as well as geographic
7103 communities, that have been systematically denied a full opportunity to participate in aspects of economic,
7104 social, and civic life.

7105 **Wetland** - An area that is saturated by water with a frequency sufficient to support or, under normal
7106 hydrologic conditions would support, a prevalence of vegetation or aquatic life typically adapted to saturated
7107 or seasonally saturated soil conditions (e.g., swamp, fresh and saltwater marsh, bog, fen).

7108 **Zoo** - Any facility maintained under the care of a Doctor of Veterinary Medicine, in which live animal(s) are
7109 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 laws and Executive Orders (EOs) are commonly encountered federal requirements that were established to help protect the environment and preserve the Nation's historic and archaeological resources. Federal Emergency Management Agency (FEMA) reviews 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. Compliance with all federal and state, local, tribal, and territorial (SLTT) laws is a requirement of every FEMA award. SLTT laws, such as hazardous material management laws, vary by location and are not included in this appendix.

FEMA prepares a Greensheet at the beginning of each emergency or disaster declaration with specific information relevant to each state and area. These Greensheets are FEMA's disaster-specific guidance for applicants about key aspects of EHP reviews. Greensheets briefly discuss the relevant laws and project types that might trigger application of those laws and informs the applicant of federal and SLTT laws that must be followed.

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.⁴³³ The White House Council on Environmental Quality publishes its NEPA regulations in Title 40 of the Code of Federal Regulations (C.F.R.) Parts 1500–1508. The U.S. Department of Homeland Security publishes policies and procedures for implementing NEPA and provides specific processes that FEMA must follow before funding a project. The NEPA process ensures consideration of environmental consequences of the project before decisions are made and involves the public.

National Historic Preservation Act

Section 106 of the National Historic Preservation Act (NHPA) requires FEMA to consider the effects an undertaking will have on historic properties and provide the Advisory Council on Historic Preservation the opportunity to comment on the effects of the undertaking.⁴³⁴ Historic properties include buildings, structures, sites, including archaeological resources, objects, and districts included in, or eligible for inclusion in, the National Register of Historic Places.⁴³⁵ FEMA fulfills its Section 106 responsibilities through consultation with outreach to the State Historic Preservation Office (SHPO), Tribal Historic Preservation Office (THPO), and other consulting parties, including the subrecipient and recipient, and in many cases FEMA is able to streamline and accelerate the compliance process through utilizing Programmatic

⁴³³ 42 U.S.C. § 4332.

⁴³⁴ 16 U.S.C. § 470f.

⁴³⁵ www.nps.gov/subjects/nationalregister/index.htm.

7145 Agreements executed with the SHPO/THPO and the recipient. When FEMA funded undertakings result in
7146 adverse effects to historic properties, Section 106 of NHPA requires FEMA to consult with the SHPO/THPO
7147 and other consulting parties to resolve the adverse effects through avoidance, minimization, or
7148 compensation measures.

7149 **Endangered Species Act**

7150 The Endangered Species Act (ESA) requires Federal agencies to use their authorities to conserve federally
7151 listed threatened and endangered species (listed species) and critical habitats. FEMA must also consult with
7152 the U.S. Fish and Wildlife Service (USFWS) and the National Oceanic and Atmospheric Administration's
7153 (NOAA's) National Marine Fisheries Service (NMFS), also known as NOAA Fisheries, to ensure that proposed
7154 projects will not jeopardize the continued existence of any listed species or result in the destruction or
7155 adverse modification of critical habitat for listed species.⁴³⁶

7156 **Clean Water Act**

7157 The Clean Water Act (CWA) establishes the basic structure for regulating discharges of pollutants in the
7158 waters of the United States (e.g., rivers and streams, lakes and ponds, coastlines, wetlands, estuaries). The
7159 CWA makes it unlawful to discharge any pollutant from a specific source into navigable waters without the
7160 appropriate CWA permits from the U.S. Army Corps of Engineers (USACE) or state regulatory agency.⁴³⁷ In
7161 addition, the CWA requires authorization for dredging or filling in waters (including disposal of dredged
7162 material). Applicants must ensure applicable permits are acquired prior to beginning work. Documentation of
7163 this must be provided to FEMA and may include statements of compliance with Nation-wide permits (NWP)
7164 or Individual Section 404 permits. Common work activities that may require permits under the Clean Water
7165 Act include those that involve the repair of docks, piers, and/or marinas.

7166 **Rivers and Harbors Act**

7167 The Rivers and Harbors Act requires that authorization be obtained from USACE to construct any structure in
7168 or over any navigable water, including authorization for projects involving constructing or modifying bridges
7169 and causeways over navigable waters or constructing any dam or dike in a navigable water. Typically,
7170 requests for this type of authorization are handled together with requests for authorization of projects under
7171 Section 404 of the CWA. Common work activities that may require permits under the Rivers and Harbors Act
7172 include those that involve the repair of docks, piers, and/or marinas.

7173 **Safe Drinking Water Act**

7174 The purpose of the Safe Drinking Water Act is to protect public health by ensuring the quality of drinking
7175 water. The law authorizes the U.S. Environmental Protection Agency (EPA) to, among other things, set
7176 standards for the levels of individual contaminants allowed in drinking water and designate as aquifers that
7177 are the sole or principal source of drinking water for an area as sole source aquifers. For any financial

⁴³⁶ 16 U.S.C. § 1536, Endangered Species Act Section 7.

⁴³⁷ 33 U.S.C. § 1251 et seq.

7178 assistance project that has the potential to contaminate an aquifer and that is located in the identified
7179 review area for a sole source aquifer, FEMA must consult with the EPA before funding the project.

7180 **Clean Air Act**

7181 The Clean Air Act (CAA) protects the Nation's air through the reduction of smog and atmospheric pollution.
7182 Air quality compliance often requires certain measures be implemented, such as dust abatement, vehicle
7183 emissions control, fuel storage, and distribution procedures. There may be additional requirements in
7184 nonattainment areas (defined as those areas that do not meet national standards for air quality and,
7185 therefore, require more rigorous compliance measures).⁴³⁸ For projects where there is an impact to air
7186 quality, applicants should coordinate with and obtain any permits from applicable state or local
7187 environmental agencies approving the action.

7188 **Coastal Barrier Resources Act**

7189 The Coastal Barrier Resources Act (CBRA)⁴³⁹ established the John H. Chafee Coastal Barrier Resources
7190 System (CBRS), which consists of relatively undeveloped coastal barriers along the Atlantic, Gulf, Great
7191 Lakes, and Caribbean coasts. CBRA minimizes adverse impacts to these areas by restricting federal
7192 assistance that encourages development within the CBRS. USFWS publishes maps designating these
7193 areas.⁴⁴⁰ FEMA must consult with USFWS prior to providing PA funding for work within the CBRS.⁴⁴¹

7194 **Migratory Bird Treaty Act**

7195 The Migratory Bird Treaty Act makes it unlawful to pursue, hunt, take, capture, kill, or sell migratory birds
7196 listed in the statute without a waiver from USFWS.⁴⁴² The state does not discriminate between live or dead
7197 birds and also grants full protection to any bird parts including feathers, eggs, and nests. FEMA consults with
7198 USFWS regarding projects likely to trigger compliance with this Act.

7199 **Bald and Golden Eagle Protection Act**

7200 The Bald and Golden Eagle Protection Act prohibits any person from pursuing, capturing, killing, wounding,
7201 disturbing, or otherwise taking bald eagles or golden eagles, including their parts (e.g., feathers), nests, or
7202 eggs, unless authorized by a permit from the USFWS. The prohibition on disturbance applies to nests and
7203 previously used nest sites when eagles are not present if, were an eagle to return, such alterations would
7204 lead to injury, death, or nest abandonment. FEMA will consult with the USFWS regarding projects where
7205 impacts to bald or golden eagles may occur.

7206 **Magnuson-Stevens Fishery Conservation and Management Act**

7207 The Magnuson-Stevens Fishery Conservation and Management Act is the primary law for managing and
7208 maintaining sustainable fisheries in waters of the United States. The Magnuson-Stevens Fishery

⁴³⁸ 42 U.S.C. § 7401 et seq.

⁴³⁹ 16 U.S.C. § 3501 et seq.

⁴⁴⁰ 16 U.S.C. §§ 3501 and 3503. The U.S. Fish and Wildlife Service publishes Coastal Barrier Resource System maps at:
www.fws.gov/ecological-services/habitat-conservation/cbra/Maps/index.html.

⁴⁴¹ 16 U.S.C. § 3505.

⁴⁴² 16 U.S.C. §§ 703–712.

7209 Conservation and Management Act protects essential fish habitat, which includes the waters and substrate
7210 necessary to maintain healthy fisheries. FEMA must consult with NMFS when any proposed PA project could
7211 have an adverse effect on essential fish habitat (defined as any impact that reduces quality or quantity of
7212 essential fish habitat).⁴⁴³

7213 **Marine Mammal Protection Act**

7214 The Marine Mammal Protection Act prohibits, with certain exceptions, the “take” of marine mammals in U.S.
7215 waters or by U.S. citizens on the high seas. The law prohibits attempts to hunt, capture, kill, or harass any
7216 marine mammals. The law authorizes NMFS or USFWS (depending on the species in question) to issue
7217 incidental take permits and incidental harassment authorizations. FEMA will consult with the USFWS/NMFS
7218 regarding projects where impacts to marine mammals may occur.

7219 **National Marine Sanctuaries Act (NMSA)**

7220 The National Marine Sanctuaries Act, which is part of the Marine Protection, Research and Sanctuaries Act,
7221 authorizes the Secretary of Commerce to designate and manage areas of the marine environment as
7222 National Marine Sanctuaries (NMS), which NOAA administers. Activities within each NMS are governed by
7223 regulations. A sanctuary resource is defined as any living or nonliving resource of a NMS that contributes to
7224 the conservation, recreational, ecological, historical, educational, cultural, archeological, scientific, or
7225 aesthetic value of the sanctuary. The National Marine Sanctuaries Act prohibits destroying, injuring, or
7226 causing the loss of any sanctuary resource. A permit is required to conduct any activity within a sanctuary
7227 that is otherwise prohibited.

7228 **Coastal Zone Management Act**

7229 The Coastal Zone Management Act (CZMA) provides for the management of the Nation’s coastal resources.
7230 The CZMA establishes a voluntary partnership between the federal government and coastal and Great Lakes
7231 states. It requires participating states to develop State coastal zone management plans. PA projects located
7232 in, or near, established coastal zone management areas must be consistent with the enforceable policies of
7233 the state’s federally approved coastal zone management program.⁴⁴⁴ Before approving a project in a coastal
7234 zone management area, FEMA consults with the state agency overseeing the implementation of the CZMA
7235 plan to ensure the project is consistent with the program’s provisions.

7236 **Farmland Protection Policy Act**

7237 The Farmland Protection Policy Act is intended to minimize the extent to which federal programs contribute
7238 to the conversion of prime or unique farmland, or land of statewide or local importance, to nonagricultural
7239 uses and to ensure that federal programs are administered in a manner that, to the extent practicable, will
7240 be compatible with state, local, and private programs and policies to protect farmland. The Farmland
7241 Protection Policy Act and U.S. Department of Agriculture (USDA) implementing procedures require FEMA to
7242 evaluate whether projects it funds irreversibly convert such farmland to nonagricultural uses and to consider
7243 alternative actions that could avoid adverse effects. For projects that have the potential to irreversibly

⁴⁴³ 16 U.S.C. §§ 1801–1884.

⁴⁴⁴ 16 U.S.C. § 1451 et seq.

7244 convert such farmland, FEMA must consult with the USDA Natural Resources Conservation Service (NRCS) to
7245 identify potential impacts to that farmland.⁴⁴⁵

7246 **Wild and Scenic Rivers Act**

7247 The Wild and Scenic Rivers Act protects the free-flowing condition of rivers that are part of the National Wild
7248 and Scenic Rivers System (System) or are under study for inclusion in the System because of their scenic,
7249 recreational, geologic, fish and wildlife, historic, cultural, or other similar values (the rivers under study are
7250 listed on the Nationwide Rivers Inventory or have been formally identified as Study Rivers). If a proposed
7251 project is located on a river covered by the Wild and Scenic Rivers Act (including a designated river, a Study
7252 River, or a river on the Nationwide Rivers Inventory), FEMA must review it for compliance with the Wild and
7253 Scenic Rivers Act and consult with the managing agency for the affected designated river.⁴⁴⁶

7254 **Resource Conservation and Recovery Act**

7255 The Resource Conservation and Recovery Act (RCRA) established a framework for federal, state, and local
7256 cooperation for controlling the management of hazardous and non-hazardous solid waste. EPA's role is to
7257 establish minimum regulatory standards, usually implemented by the states, which can establish their own
7258 requirements for solid waste management. RCRA requires the safe disposal of waste materials, promotes
7259 the recycling of waste materials, and encourages cooperation with local agencies.⁴⁴⁷ FEMA may require
7260 proof of compliant disposition in the form of state debris management permits/forms, landfill permit
7261 information, written statements from appropriate authorities, or project specific permits and plans.

7262 **Comprehensive Environmental Response, Compensation and Liability Act**

7263 The Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), also known as
7264 Superfund, authorizes the federal government to respond to releases or threatened releases of hazardous
7265 substances into the environment through short-term removals and long-term remedial response actions.
7266 Superfund also triggered the development of the National Priorities List, a list of national priorities among
7267 the sites with known or threatened releases of hazardous contaminants. The 1986 amendments to CERCLA
7268 included the Emergency Planning and Community Right-to-Know Act (EPCRA) which, among other things,
7269 creates mechanisms to help local communities plan for chemical emergencies. FEMA will consult with the
7270 EPA on projects affected by a Superfund site.

7271 **Executive Order 11988, Floodplain Management**

7272 The EO requires federal agencies to minimize or avoid, to the extent possible, the long- and short-term
7273 adverse impacts associated with occupancy and modifications of floodplain and to avoid direct and indirect
7274 support of floodplain development wherever there is a practicable alternative. It requires federal agencies to
7275 use a systematic decision-making process to evaluate the potential effects of projects located in, or

⁴⁴⁵ 7 U.S.C. § 4201 et seq.

⁴⁴⁶ 16 U.S.C. § 1271 et seq.

⁴⁴⁷ 42 U.S.C. § 6901 et seq.

7276 affecting, floodplains; document each step of the process; and involve the public in the decision-making
7277 process. This process is designed to:

- 7278 ▪ Reduce flood loss risks;
- 7279 ▪ Minimize the impacts of floods on human safety, health, and welfare; and
- 7280 ▪ Restore and preserve the natural and beneficial functions of floodplains.

7281 FEMA publishes its implementing regulations for EO 11988 in 44 C.F.R. Part 9, Floodplain Management and
7282 Protection of the Wetlands. These regulations set forth the policy, procedures, and responsibilities to
7283 implement and enforce the EO, including the decision-making process, which is referred to as the 8-step
7284 process.⁴⁴⁸

7285 **Executive Order 11990, Protection of Wetlands**

7286 The EO requires federal agencies to avoid to the extent possible, the long- and short-term adverse impacts
7287 associated with the destruction or modification of wetlands and to avoid direct or indirect support of new
7288 construction in wetlands wherever there is a practicable alternative. To meet these objectives, EO 11990
7289 requires federal agencies to use a systematic decision-making process to evaluate the potential effects of
7290 projects in, or affecting, wetlands; document each step of the process; and involve the public in the decision-
7291 making process.

7292 FEMA publishes its implementing regulations for EO 11990, Protection of Wetlands in 44 C.F.R. Part 9,
7293 Floodplain Management and Protection of the Wetlands. These regulations set forth the policy, procedures,
7294 and responsibilities to implement and enforce the EO, including the decision-making process, which is
7295 referred to as the 8-step process.

7296 **Executive Orders 12898 and 14096, Environmental Justice**

7297 [Executive Order 12898](#), Federal Actions to Address Environmental Justice in Minority Populations and Low-
7298 Income Populations and [Executive Order 14096](#), Revitalizing Our Nation’s Commitment to Environmental
7299 Justice for All, make clear that the pursuit of environmental justice is a duty of all federal agencies and
7300 should be incorporated into their missions. EO 14096 supplements the foundational efforts of EO 12898 to
7301 address environmental justice. EO 14096 also includes, a whole of government definition of environmental
7302 justice.⁴⁴⁹

7303 If FEMA determines that a proposed project would have disproportionately high and adverse effects on
7304 minority or low-income populations, then FEMA will work with an applicant to revise the scope of work to
7305 avoid the impacts or condition of a project with mitigation measures to alleviate the impacts.

7306 **Executive Order 13112, Invasive Species**

7307 The EO requires agencies to use their programs and authorities to help prevent the introduction,
7308 establishment, and spread of invasive species; respond to invasive species outbreaks; restore native

⁴⁴⁸ 44 C.F.R. § 9.6, Decision-making process.

⁴⁴⁹ See EO 14096, Section 2

7309 species in areas invaded by invasive species; promote public education related to invasive species control;
7310 and avoid authorizing, funding, or carrying out activities that promote the introduction, establishment, or
7311 spread of invasive species. FEMA will consult with state and local environmental and debris management
7312 agencies to ensure projects are in compliance with E.O. 13112.

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 Facility 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 ineligible because more than 50 percent of the building space is leased to an ineligible applicant.

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 families of domestic abuse, 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 determines eligibility and the level of assistance. Therefore, even though the entire facility is used for eligible purposes, FEMA prorates 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

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Title 44 of the Code of Federal Regulations (C.F.R.) § 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 prorated 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

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The Woodlands Homeowners' Association is a PNP organization responsible for providing certain services for a 200-home development. The Homeowners' Association is responsible for the local neighborhood streets, water system, sewage system, fire station, medical clinic, neighborhood park, community center, and a recreational lake and dam.



Analysis

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The Homeowners' Association provides eligible critical services and therefore is an eligible PNP. The eligibility of each service is considered separately. The lake, dam, and park are not eligible PNP facilities because they provide primarily recreational services. 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 streets which support provision of any critical services directly by the PNP are eligible facilities. However, the eligibility of street-related work depends on whether the streets have restricted access and the type of work involved. The community center is considered more closely. If it is primarily used as a gathering place for a variety of social, educational enrichment, and community service activities, it is eligible because it provides noncritical but essential social services. To be eligible, it must serve the general public outside the Homeowners' Association community.

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Recreational Center – Primarily Athletic Services

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Westover Recreation Center sponsors a variety of activities. The center is available for rental on Friday, Saturday, and Sunday evenings 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.



Analysis

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Although Westover Recreation Center offers some eligible noncritical essential social services, 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 ineligible community centers. The Articles of Incorporation filed with the state verify that Westover was established for recreational purposes. It is not necessary to calculate the percentage of time or space devoted to community activities versus athletic and recreational activities, because Westover is on its face overwhelmingly athletic and recreational. For these reasons, a PNP facility similar to Westover would not be eligible.

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Mixed Use Community Center – Nominal Fee

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Somerset Community Center consists of several 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.

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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

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By virtue of the wide range of eligible community center 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. As the fee is nominal, it is open to the public.

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School Operated by a Religious Institution

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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

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Evaluate the three buildings separately. The two buildings used, respectively, for secular and religious education are eligible as educational facilities. As educational facilities, they are considered to provide critical services and therefore Community Church does not need to apply to SBA to receive funding for permanent work on those buildings. The chapel is eligible as a house of worship. Houses of worship provide noncritical services, so Community Church is required to apply for an SBA loan for the chapel. The restricted admissions process does not affect eligibility. Pursuant to Stafford Act Section 102(11)(B), no PNP facility is 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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Religious Institution with a Dock, a Church, and a Pastor's Residence

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A religious institution owns multiple structures within its campus. One of the structures is a dock primarily used for recreation. The buildings include a church that provides worship services and a pastoral residence.



Analysis

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Evaluate the structures separately. The dock is ineligible because its use is primarily recreational, which is an ineligible service. The church is eligible because its primary use is as a house of worship. The residence is not eligible because a private residence is not an eligible PNP service. The applicant must apply for an SBA loan for repairs to the church as it provides a noncritical service.

Appendix C: Mosquito Abatement

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7423 FEMA may provide reimbursement for mosquito abatement measures at the written request of the state,
7424 local, tribal, and territorial (SLTT) public health officials after FEMA consults with the Centers for Disease
7425 Control and Prevention (CDC), based on any of the following:

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- Evidence of:

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- Higher levels of disease transmitting mosquitoes in the impacted area following the incident;

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- A significant number of disease-carrying mosquitoes in the area due to the increase in incident-related standing water; or

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- 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 incident, discovered during surveillance as part of mosquito abatement activities, or reported human cases in which transmission occurred prior to the incident.

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- 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.

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- 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-incident surveillance results.

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- 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 impacted areas with extended power outages are forced to open buildings for air circulation.



Terminology: Arbovirus, Landing Rate, Methoprene Briquettes, Sentinel Organism, Seroconversion, and Trap Count

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- 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:

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- 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 cases;
 - 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; and
- 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.

7479 To be eligible for PA funding, insecticide formulations must be among those approved and registered by the
7480 U.S. Environmental Protection Agency for use in urban areas for mosquito control and must be applied
7481 according to label directions and precautions by appropriately trained and certified applicators. Furthermore,
7482 mosquito abatement measures must comply with all federal and SLTT laws, ordinances, and regulations
7483 concerning vector control. Mosquito abatement measures include, but are not limited to the following:

- 7484 ▪ Adulthooding – The ground or aerial spraying of insecticides to kill adult mosquitoes.
- 7485 ▪ Larviciding – The application of chemicals, including Methoprene briquettes, by ground or air to kill
7486 mosquito larvae or pupae.
- 7487 ▪ Breeding habitat removal or alteration – The modification of potential breeding habitat to make it
7488 unsuitable for mosquito breeding or to facilitate larval control, including:
 - 7489 ○ Draining or removing standing water in close proximity to homes, schools, sheltering facilities, and
7490 businesses;
 - 7491 ○ Increased dewatering through the pumping of existing drainage systems; and

7492 Dissemination of information in an accessible and effective manner (e.g., inserting flyers with resident's
7493 water bills, public service announcements, newspaper campaigns) to direct residents to remove the
7494 mosquito breeding habitat.

Appendix D: Snow Declarations

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7496 Snow-related activities, including snow removal, de-icing, salting, snow dumps, and sanding of roads and
 7497 other eligible facilities, is only an eligible emergency protective measure when a winter storm results in
 7498 record or near-record snowfall.⁴⁵⁰ FEMA considers near record as being within 10 percent of the record
 7499 snowfall. FEMA authorizes snow assistance by county based on a finding that the county received record or
 7500 near-record snowfall or meets the contiguous county criteria as described below. FEMA evaluates Tribal
 7501 lands either as part of a requested county or separately.

7502 Record or Near-Record Snowfall

7503 FEMA utilizes data collected by the National Oceanic and Atmospheric Administration’s National Centers for
 7504 Environmental Information (NCEI) to identify the historical 1-, 2-, and 3-day snowfall records for each county.
 7505 For current event snowfall, FEMA relies primarily on snowfall measurements taken at National Weather
 7506 Service (NWS) Cooperative Network Stations but accepts measurements from other sources if those
 7507 measurements are verified as reasonable and accurate by the NWS. Historical 1-, 2-, and 3-day snowfall
 7508 records by county are available on the NCEI Snow Climatology Database (SCDB) at the following website:
 7509 <https://www.ncei.noaa.gov/access/monitoring/snowfall-extremes/>. Daily snowfall reports by county are
 7510 available at: <https://www.ncei.noaa.gov/access/monitoring/daily-snow/>.

7511 FEMA follows the following process to determine record or near-record snowfalls:

- 7512 ▪ Compare current snowfall amounts with the historical record snowfall amounts for a like number of days
 7513 without regard for the month in which the record snowfall or current event occurred.
- 7514 ▪ For multiple-day snowstorms, counties or Tribal lands that meet the 1-day record or near-record
 7515 requirement on any 1 day, or the 2-day record or near record over 2 consecutive days, or the 3-day
 7516 record or near record over 3 consecutive days, etc., meets the record or near-record criteria for that
 7517 county or Tribal lands.
- 7518 ▪ FEMA relies on the NWS to determine the duration of the snowstorm.
- 7519 ▪ When data from multiple NWS-verified sources exist within a county or Tribal lands, FEMA compares the
 7520 highest current event snowfall reported by the NWS within that county or Tribal land with the highest
 7521 historical record snowfall for that county or Tribal land.
- 7522 ▪ For counties or Tribal lands that do not have NCEI or NWS historical record snowfall data, use the
 7523 historical record from the nearest NWS Cooperative Network Station in an adjacent county or Tribal land,
 7524 even if located in an adjacent State, for determining historical snowfall records.
- 7525 ▪ If current event snowfall data are not available from the NWS for a county or Tribal land, use the nearest
 7526 NWS Cooperative Network Station data from an adjacent county, even if located in an adjacent State.
- 7527 ▪ FEMA may designate a county or Tribal land that does not receive a record or near-record snowfall but is
 7528 contiguous to a county (generally referred to as a “core county”) that does receive a record or near-
 7529 record snowfall, for snow assistance if the county or Tribal land has current event snowfall that meets or

⁴⁵⁰ 44 C.F.R. § 206.227.

7530 exceeds the current event snowfall of the core county, to which it is contiguous. Base this comparison on
7531 the highest current event snowfall received by each county as reported by the NWS.

- 7532 ▪ Consider counties or Tribal areas that experience snowfalls occurring over a period exceeding 3
7533 consecutive days that do not reach record or near-record snowfalls during a 3-day period, and for which
7534 there are no historical snowfall records for a period exceeding 3 days with NCEI or NWS, on a case-by-
7535 case basis.



7536 Terminology: Core County and Contiguous County

- 7537 ▪ A **Core County** is a county that has a record or near record snowfall with PA costs that exceed the
7538 annually established countywide per capita impact indicator and is designated for snow assistance
7539 under a major disaster declaration.
- 7540 ▪ A **Contiguous County** is a county in the same State that shares a common border with a core
7541 county without geographic separation other than by a minor body of water, typically not exceeding
7542 one mile between the land areas of such counties.

7543 Winter Storm or Snowstorm Declaration Requests

7544 The request for a major disaster declaration must include a request for snow assistance as part of that
7545 declaration. All such requests are subject to the requirements and processes established in the Stafford Act
7546 and FEMA regulations.⁴⁵¹ In addition to the information required in every declaration request, requests for
7547 snow assistance must include the following information:

- 7548 ▪ Identification of core and contiguous counties for which a snowstorm declaration is requested;
- 7549 ▪ Duration of snowfall, as identified or confirmed by the NWS; and
- 7550 ▪ For each requested county or tribal land, daily snowfall totals from NWS stations or NWS-verified sources
7551 and historical record snowfall data from the NCEI.

7552 Generally, the current event weather and snowfall information is included in a statement or report from the
7553 NWS describing the event.

7554 FEMA only includes costs related to snow activities as part of the preliminary damage assessment data for
7555 counties or Tribal lands that meet the record or near-record criteria or qualify as contiguous counties. Other
7556 categories of work, including Permanent Work, may be authorized for snowstorm or winter storm
7557 declarations as appropriate.

⁴⁵¹ 44 C.F.R. § 206 Subpart B (206.31–48).

Appendix E: Mold Remediation

Mold Remediation Methods

The following table describes common mold remediation methods.

Table 34. Mold Remediation Methods

Method	Application
Wet Vacuum	<ul style="list-style-type: none"> Use when materials are wet Use where water has accumulated, such as on floors, carpets and hard surfaces <p>Do not use when sufficient liquid is not present</p>
Damp Wipe	<ul style="list-style-type: none"> Wipe or scrub non-porous (hard) surfaces with water and detergent <p>Follow instructions listed on the product label</p>
High Efficiency Particulate (HEPA) Vacuum	<ul style="list-style-type: none"> 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 <p>Personal protection equipment is highly recommended; filter and contents must be disposed of in well-sealed bags</p>
Discard	<ul style="list-style-type: none"> 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 <p>Sealing materials must be within containment area to limit further contamination</p>
<p><i>Summarized from Indoor Environments Division of the U.S. Environmental Protection Agency, "Mold Remediation in Schools and Commercial Buildings."</i></p>	

7562 **Application of Remediation Methods**

7563 The following table outlines typical mold remediation actions.

7564 **Table 35. Application of Remediation Methods**

Water Damaged Material	Action
Books and paper	<ul style="list-style-type: none"> ▪ 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	<ul style="list-style-type: none"> ▪ Wet vacuum ▪ Reduce ambient humidity levels with dehumidifier ▪ Accelerate drying process with fans
Ceiling tiles	<ul style="list-style-type: none"> ▪ Discard and replace (replacement only eligible as Permanent Work)
Cellulose insulation	<ul style="list-style-type: none"> ▪ Discard and replace (replacement only eligible as Permanent Work)
Concrete or cinder block surfaces	<ul style="list-style-type: none"> ▪ Wet vacuum ▪ Accelerate drying process with dehumidifiers, fans, and/or heaters
Fiberglass Insulation	<ul style="list-style-type: none"> ▪ Discard and replace (replacement only eligible as Permanent Work)
Hard surfaces, porous floorings (linoleum, ceramic tile, vinyl)	<ul style="list-style-type: none"> ▪ Vacuum or damp wipe with water and mild detergent ▪ Scrubbing may be necessary ▪ Allow to dry
Upholstered furniture	<ul style="list-style-type: none"> ▪ Wet vacuum ▪ Accelerate drying process with dehumidifiers, fans, and/or heaters
Wallboard (drywall and gypsum board)	<ul style="list-style-type: none"> ▪ 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	<ul style="list-style-type: none"> ▪ Launder or clean according to manufacturer’s instructions

Water Damaged Material	Action
Wood surfaces	<ul style="list-style-type: none">▪ Remove water with wet vacuum▪ Accelerate drying process with dehumidifiers, fans, and/or heaters▪ Wet paneling – discard and ventilate wall cavity
<i>Summarized from Indoor Environments Division of the U.S. Environmental Protection Agency, “Mold Remediation in Schools and Commercial Buildings.”⁴⁵²</i>	

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⁴⁵² www.epa.gov/mold/pdf-version-table-2-mold-remediation-guidelines-mold-remediation-schools-and-commercial.

Appendix F: Work Eligibility Considerations by Type of Facility

General Work Eligibility Considerations for Facilities

Table 43. Work Eligibility Considerations: All Facilities

PAPPG Reference	Topic	Applicability
Ch. 4: Facility Eligibility	Facility Eligibility	All Permanent Work.
Ch. 4: General Work Eligibility	General Work Eligibility	All work.
Ch. 6: Cost Eligibility	Cost Eligibility	All eligible work.
Ch. 7: Emergency Work Eligibility	Emergency Work Eligibility	All Emergency Work, including debris removal (Category A) and emergency protective measures (Category B).
Ch. 7: Debris Removal	Debris Removal Eligibility	All Debris Removal Work.
Ch. 10: Environmental and Historic Preservation; Appendix A	Environmental and Historic Preservation (EHP) Compliance	All work (including ground disturbance for any staging areas, access roads, parking, landscaping, grading, or utilities).
Ch. 8: Codes and Standards	Codes and Standards	Upgrades to pre-disaster design required by codes or standards.
Ch. 8: Hazard Mitigation; Appendix J	Hazard Mitigation	Hazard mitigation is any cost-effective measure which will reduce the potential for damage to a facility from a disaster event. ⁴⁵³
Ch. 8: Repair vs. Replacement	Replacement	The purpose of the 50% Rule is to make an early determination on whether it is more prudent to repair or replace a facility. It is not intended to be a full calculation of all eligible project costs.
Ch. 8: Relocation	Permanent Relocation	FEMA may approve funding for and require restoration of an applicant's destroyed (i.e., eligible for replacement) facility at a new location.
Ch. 8: Facility Located in or Impacting a Floodplain	Floodplain Considerations	All Permanent Work in or impacting the floodplain.

⁴⁵³ 44 C.F.R. § 206.201(e).

PAPPG Reference	Topic	Applicability
Ch. 8: Landslides and Slope Stabilization	Landslides and Slope Stabilization	Facilities damaged due to a landslide or slope instability triggered by the incident.
Ch. 8: Building Code and Floodplain Management Administration and Enforcement	Disaster Recovery Reform Act Section 1206	FEMA will provide resources needed to effectively administer and enforce building codes and floodplain management regulations (e.g., substantial damage assessments or determinations, permitting, etc.) and enhancing National Flood Insurance Program (NFIP) compliance.
Ch. 7: Temporary Relocation of Essential Services	Temporary Relocation	Certain essential community service facilities.

7574 **Work Eligibility Considerations for Roads and Bridges**

7575 The following work eligibility considerations apply to:

- 7576 7577 ▪ Roads (including, but not limited to: surface, base, shoulders, roadside ditches, guardrails, lighting, signage, sidewalks);
- 7578 ▪ Drainage structures (including, but not limited to culvert, low-water crossing); and
- 7579 7580 ▪ Bridges (including, but not limited to, decking, pavement, piers, girders, abutments, slope protection, approaches, guardrails, lighting, signage, sidewalks).

7581 EHP laws, regulations, and EOs that frequently apply: NEPA; NHPA, ESA, CWA, CAA, EOs 11988 and 11990.
 7582 In addition, projects involving work in waterways usually require Section 404 permits, which are issued by
 7583 the USACE as required by the CWA and also for local NFIP requirements.

7584 **Table 44. Work Eligibility Considerations: Roads and Bridges**

PAPPG Reference	Category	Eligible Work (including but not limited to)	Ineligible Work and Costs	Other Considerations
Ch. 7	A	Debris removal and disposal to eliminate an immediate threat.	<ul style="list-style-type: none"> ▪ Removal of debris placed on public ROWs from commercial properties unless pre-approved by FEMA. ▪ Removal of materials related to the construction, repair, or renovation of either residential or commercial structures. 	<ul style="list-style-type: none"> ▪ Must distinguish between incident-related debris versus debris generated by other recent events.
Ch. 7	B	Emergency access	<ul style="list-style-type: none"> ▪ Removal of debris from a privately-owned access facility UNLESS 	<ul style="list-style-type: none"> ▪ Must complete all necessary legal processes or obtains

PAPPG Reference	Category	Eligible Work (including but not limited to)	Ineligible Work and Costs	Other Considerations
		<ul style="list-style-type: none"> ▪ The extent of damage or blockage makes areas inaccessible. ▪ Clearing debris from or conducting emergency repairs to an access facility, such as a road or bridge. ▪ Limited to work necessary for the access to remain passable. ▪ Includes construction of strictly temporary access. 	<p>no other access point exists, and damage or debris impedes emergency access.</p> <ul style="list-style-type: none"> ▪ Emergency repairs to privately-owned roads UNLESS no other access point exists, damage impedes emergency access, and repair eliminates temporary housing needs. 	<p>rights-of-entry and agreements to indemnify and hold harmless the federal government.</p>
Ch. 7	B	Emergency repairs to address an immediate threat.	<ul style="list-style-type: none"> ▪ Emergency repair of federal-aid highways (under FHWA authority). 	
Ch. 6 & 8	C	Restoration (permanent repair or replacement).	<ul style="list-style-type: none"> ▪ 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. ▪ Costs related to maintenance of roads. ▪ Repair of federal-aid highways (under FHWA authority). 	<ul style="list-style-type: none"> ▪ 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 (H&H) studies to evaluate upstream and downstream impacts are necessary if replacing culvert with differently sized cross drain structure.

7585 **Work Eligibility Considerations for Water Control Facilities**

7586 The following work eligibility considerations apply to:

- 7587 ▪ Dams or reservoirs;
- 7588 ▪ Irrigation and water conveyances (including canals, pipelines, laterals, pump stations, siphons);
- 7589 ▪ Aqueducts;

- 7590 ▪ Drainage channels;
- 7591 ▪ Sediment and debris basins;
- 7592 ▪ Stormwater retention and detention basins;
- 7593 ▪ Coastal shoreline protection facilities (including seawalls and revetments);
- 7594 ▪ Flood control works (including levees, floodwalls, flood control channels, dams or basins, and other structures primarily used for flood control);
- 7595
- 7596 ▪ Navigational waterways; and
- 7597 ▪ Shipping channels.
- 7598 Construction of storm water drainage facilities associated with road projects (inside the ROW) are instead
- 7599 considered eligible work under Category C.

7600 EHP laws, regulations, and EOs that frequently apply to work eligibility for water control facilities include
 7601 NEPA, NHPA, ESA, CWA, EOs 11988 and 11990. Projects involving work in waterways usually require Section
 7602 404 permits, which are issued by the USACE as required by the CWA and to include potential local NFIP
 7603 requirements.

7604 **Table 45. Work Eligibility Considerations: Water Control Facilities**

PAPPG Reference	Category	Eligible Work (including but not limited to)	Ineligible Work and Costs	Other Considerations
Ch. 7	A	Debris removal and disposal (from natural feature or engineered facility) to eliminate an immediate threat. <ul style="list-style-type: none"> ▪ Debris removal eligibility requirements are different for navigable vs. non-navigable waterways 	<ul style="list-style-type: none"> ▪ Removal of debris to eliminate a threat of flooding to agricultural land. ▪ Surveys to look for debris. ▪ Debris removal from flood control works that are under the specific authority of another federal agency. ▪ Removal of debris from federally maintained navigable waterways. 	<ul style="list-style-type: none"> ▪ Must distinguish between incident-related debris versus pre-existing debris and debris generated by other incidents.
Ch. 7	B	Flood-fighting (on natural feature or engineered facility) or emergency repairs (engineered and maintained facility only) to address an immediate threat: <ul style="list-style-type: none"> ▪ Includes the repair of deliberate breaches or removal of flood-fighting measures as part of the Category B 	<ul style="list-style-type: none"> ▪ Emergency protective measures to reduce the threat of flooding to agricultural land. ▪ Emergency repair of flood control works that are under the authority of another federal agency. ▪ Permanently increasing height or capacity of a flood control work. 	<ul style="list-style-type: none"> ▪ USACE can conduct flood fighting activities. ▪ USACE cannot reimburse applicants for flood fighting efforts.

PAPPG Reference	Category	Eligible Work (including but not limited to)	Ineligible Work and Costs	Other Considerations
		emergency protective measure project.	<ul style="list-style-type: none"> De-watering of flooded areas primarily for the purpose of drying land. Emergency repair of a secondary levee riverward of a primary levee. Emergency repairs of flood control works under the authority of another federal agency and of federally constructed coastal shoreline protective features under the authority of another federal agency. 	
Ch. 8	D	Debris and silt removal required to restore capacity (engineered and maintained facilities only).	<ul style="list-style-type: none"> Restoration of flood control works under the authority of USACE. 	<ul style="list-style-type: none"> None
Ch. 8	D	Restoration (permanent repair or replacement) <ul style="list-style-type: none"> Includes PNP irrigation facilities only if they provide water for essential services of a governmental nature to the general public for water for drinking water supply, fire suppression, or electricity generation 	<ul style="list-style-type: none"> Restoration of natural channels, lakes, and shorelines (any feature that is not improved and maintained) Restoration of PNP irrigation systems that provide water solely for agricultural purposes. Restoration of federally constructed coastal shoreline protective features 	<ul style="list-style-type: none"> None

7605 **Work Eligibility Considerations for Buildings, Equipment, and Vehicles**

7606 EHP laws, regulations, and EOs that frequently apply to work eligibility considerations for buildings,
 7607 equipment, and vehicles include NEPA, NHPA, CAA, ESA and EOs 11988 and 11990.

7608 **Table 46. Work Eligibility Considerations: Buildings, Equipment, and Vehicles**

PAPPG Reference	Category	Eligible Work (including but not limited to)	Ineligible Work and Costs	Other Considerations
Ch. 7	B	Extracting water and clearing mud, silt, or other accumulated debris from eligible facilities	Conducted on private property UNLESS FEMA approves the work because:	<ul style="list-style-type: none"> None

PAPPG Reference	Category	Eligible Work (including but not limited to)	Ineligible Work and Costs	Other Considerations
		<ul style="list-style-type: none"> ▪ Requires the work to be conducted expeditiously for the purpose of addressing an immediate threat. ▪ Work necessary to restore the facility is Permanent Work, not Emergency Work (see Category E below) 	<ul style="list-style-type: none"> ▪ The immediate threat is widespread, affecting numerous homes and businesses such that it is a threat to the health and safety of the general public. ▪ The applicant has legal authority to perform the work. ▪ The applicant obtained rights-of-entry and agreements to indemnify and hold harmless the federal government 	
Ch. 8	E	<p>Removal of mud, silt, or other accumulated debris.</p> <ul style="list-style-type: none"> ▪ Must be conducted in conjunction with restoration of the facility 	<ul style="list-style-type: none"> ▪ None 	<ul style="list-style-type: none"> ▪ None
Ch. 7	B	<p>Mold remediation to address immediate threat of additional damage.</p> <ul style="list-style-type: none"> ▪ Includes post-remediation sampling to confirm remediation is complete 	<ul style="list-style-type: none"> ▪ Mold remediation required as a result of poor facility maintenance or failure to take protective measures in a reasonable amount of time following the incident. 	<ul style="list-style-type: none"> ▪ Pre-remediation mold sampling is only eligible when sampling reveals presence of mold.
Ch. 8	E	<p>Mold remediation when conducted in conjunction with restoring the facility.</p> <ul style="list-style-type: none"> ▪ Includes post-remediation sampling to confirm remediation is complete. 	<ul style="list-style-type: none"> ▪ Mold remediation required as a result of poor facility maintenance or failure to take protective measures in a reasonable amount of time following the incident. 	<ul style="list-style-type: none"> ▪ Pre-remediation mold sampling is only eligible when sampling reveals presence of mold.
Ch. 7	B	<p>Emergency protective measures to address an immediate threat.</p> <ul style="list-style-type: none"> ▪ Includes buttressing, bracing, or shoring; barricading and safety fencing; and flood 	<ul style="list-style-type: none"> ▪ None 	<ul style="list-style-type: none"> ▪ None

PAPPG Reference	Category	Eligible Work (including but not limited to)	Ineligible Work and Costs	Other Considerations
		protection, such as sandbagging. <ul style="list-style-type: none"> ▪ Includes emergency repairs to prevent further damage. 		
Ch. 7	B	Demolition to address an immediate threat. <ul style="list-style-type: none"> ▪ May include demolition of private structures when collapse is imminent and an immediate threat exists to the general public (subject to additional requirements). 	<ul style="list-style-type: none"> ▪ Removal of slabs or foundations that do not present a health or safety hazard (except structures in a buyout program funded by FEMA through HMGP). ▪ Removal or covering of concrete pads and driveways (except structures in a buyout program funded by FEMA through HMGP). 	<ul style="list-style-type: none"> ▪ If securing an unsafe structure and the surrounding area to prevent access is sufficient to alleviate the threat to public safety, demolition may not be necessary or eligible.
Ch. 7 & 8	B & I	Safety inspections <ul style="list-style-type: none"> ▪ Must be intended to establish whether a building is safe for entry, occupancy, and lawful use, as well as posting appropriate placards. ▪ Applies to both public and private buildings. 	Inspections associated with: <ul style="list-style-type: none"> ▪ A determination of whether the building needs to be elevated or relocated. ▪ Ensuring repairs are completed in accordance with applicable building codes and standards. ▪ Inspections for substantial damage compliance. ▪ Building inspections to ensure the removal of temporary fill and related materials used in flood fighting. ▪ inspections to ensure compliance with repair and substantial damage construction requirements. 	<ul style="list-style-type: none"> ▪ None
Ch. 6 & 8	E	Post-earthquake inspection and evaluation of welded steel moment frames in buildings <ul style="list-style-type: none"> ▪ Must be intended to determine the level of 	<ul style="list-style-type: none"> ▪ Preliminary assessment to determine which buildings are likely to have sustained damage to welded 	<ul style="list-style-type: none"> ▪ The repair of the damaged frame connections to pre-earthquake design in accordance with FEMA 352, Chapter 6, is eligible, but only if

PAPPG Reference	Category	Eligible Work (including but not limited to)	Ineligible Work and Costs	Other Considerations
		<p>disaster-related damage requiring repair</p>	<p>steel moment frame connections.</p> <ul style="list-style-type: none"> ▪ Detailed analytical or experimental studies. ▪ Inspections that do not yield discovery of significant connection damage attributable to the earthquake 	<p>FEMA approves a specific SOW for the repairs prior to the applicant performing the work.</p> <ul style="list-style-type: none"> ▪ Repair of the architectural finishes and fire retardants removed in the area of the damage are also eligible
Ch. 6 & 8	E	<p>Restoration (permanent repair or replacement)</p> <ul style="list-style-type: none"> ▪ Repair or replacement of buildings (to achieve pre-disaster design, capacity, and / or function) ▪ Repair or replacement of building components, vehicles or equipment with items similar in age, condition, and capacity 	<ul style="list-style-type: none"> ▪ Tax assessments ▪ Additional capacity necessary due to increased population or use, even if required by code. ▪ Americans Disabilities Act (ADA), if the applicant was notified of being in violation of a requirement prior to the incident and did not bring the facility into compliance, then accessibility requirements related to the violation are ineligible. 	<ul style="list-style-type: none"> ▪ Need date(s) of construction of all facilities in the project area. ▪ Check National Register of Historic Places or a State historic register. ▪ Identify whether the building is located in the 1% annual chance floodplain (0.2% annual chance floodplain for critical actions) ▪ Public Housing Authority facility(s) is only eligible for Permanent Work if Congress does not appropriate funds to HUD for emergency capital needs for the facility. ▪ 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 codes and standards when

PAPPG Reference	Category	Eligible Work (including but not limited to)	Ineligible Work and Costs	Other Considerations
				repairing or replacing building

7609 **Work Eligibility Considerations for Contents**

7610 Contents includes furnishings, equipment, consumable supplies, files, records, research-related contents,
 7611 animals, irreplaceable collections and individual objects, library books, and publications.

7612 **Table 47. Work Eligibility Considerations: Contents**

PAPPG Reference	Category	Eligible Work (including but not limited to)	Ineligible Work and Costs	Other Considerations
Ch. 7	B	Address an immediate threat. <ul style="list-style-type: none"> Includes removal and storage of contents to minimize additional damage. 	<ul style="list-style-type: none"> None 	<ul style="list-style-type: none"> None
Ch. 8	E	Restoration (permanent repair or replacement) <ul style="list-style-type: none"> Replacement of destroyed contents with items similar in age, condition, and capacity. Condition assessment, stabilization, and treatment and treatment of irreplaceable items. Recovering and stabilizing records. Re-shelving, cataloging, and other work incidental to the replacement of library books and publications. 	<ul style="list-style-type: none"> 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. 	<ul style="list-style-type: none"> Contents may be replaced with different items used for the same general purpose. Eligible funding is capped at the estimated cost for equivalent items.

7613 **Work Eligibility Considerations for Utilities**

7614 The following work eligibility considerations apply to:

- 7615 ▪ Water storage, treatment plants, and delivery systems;
- 7616 ▪ Power generation, transmission, distribution, and storage facilities (including, but not limited to, natural gas systems, wind turbines, generators, substations, and power lines);
- 7617
- 7618 ▪ Sewage collection systems and treatment plants; and
- 7619 ▪ Communication systems.
- 7620 EHP laws, regulations, and EOs that frequently apply to work eligibility for utilities include NEPA, NHPA, ESA,
- 7621 CAA, CWA, and EOs 11988 and 11990 and to include potential local NFIP requirements.

7622 **Table 48. Work Eligibility Considerations: Utilities**

PAPPG Reference	Category	Eligible Work (including but not limited to)	Ineligible Work and Costs	Other Considerations
Ch. 6 & 7	B	<p>Emergency protective measures to address an immediate threat.</p> <ul style="list-style-type: none"> ▪ Includes buttressing, bracing, or shoring; barricading and safety fencing; and flood protection, such as sandbagging. ▪ Includes emergency repairs to prevent further damage. 	<ul style="list-style-type: none"> ▪ 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. 	<ul style="list-style-type: none"> ▪ Limited ROW clearance required to access a damaged facility may be eligible. ▪ For debris removal and permanent work, straight-time and overtime costs are eligible for both budgeted and unbudgeted labor. ▪ For emergency protective measures, only overtime costs are eligible for budgeted labor; for unbudgeted labor, both straight-time and overtime costs are eligible.
Ch. 6 & 8	F	<p>Restoration (permanent repair or replacement).</p> <ul style="list-style-type: none"> ▪ Includes components of the system, including buildings, structures, or systems, even if not contiguous. ▪ Electrical conductor replacement subject to specific criteria. ▪ Includes inspection or assessment of damaged components of a system. ▪ May include inspection or assessment of an inaccessible structure or component of a 	<ul style="list-style-type: none"> ▪ General post-disaster surveys, inspections, and assessments, such as video inspection of sewer lines. 	<ul style="list-style-type: none"> ▪ 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 (Category F), not Emergency Work (Category B).

PAPPG Reference	Category	Eligible Work (including but not limited to)	Ineligible Work and Costs	Other Considerations
		system, but only when there is evidence of damage, such as when sunken ground appears above a water pipeline.		

7623 **Work Eligibility Considerations for Parks, Recreation, and Other**

7624 EHP laws, regulations, and EOs that frequently apply to work eligibility for parks, recreation, and other
 7625 include NEPA, NHPA, CZMA, CBRA, ESA, CWA, and EOs 11988 and 11990 and to include potential local NFIP
 7626 requirements.

7627 **Table 49. Work Eligibility Considerations: Parks, Recreation, and Other**

PAPPG Reference	Category	Eligible Work (including but not limited to)	Ineligible Work and Costs	Other Considerations
Ch. 7	B	Emergency protective measures to address an immediate threat. <ul style="list-style-type: none"> ▪ Includes buttressing, bracing, or shoring; barricading and safety fencing; and flood protection, such as sandbagging. ▪ Includes emergency repairs or stabilization to eliminate or lessen an immediate threat. 	<ul style="list-style-type: none"> ▪ 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, not Emergency Work. 	<ul style="list-style-type: none"> ▪ None
Ch. 8	G	Restoration (permanent repair or replacement). <ul style="list-style-type: none"> ▪ Includes replacement of trees, shrubs, and other vegetation during site restoration. 	<ul style="list-style-type: none"> ▪ 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 destroyed crops, ▪ Restoration of private and homeowners' association beaches or dunes, 	<ul style="list-style-type: none"> ▪ Restoration of engineered beaches is subject to specific eligibility criteria.

7628

Appendix J: Cost-Effective Public Assistance Hazard Mitigation Measures

FEMA considers the following mitigation measures to be cost-effective Public Assistance (PA) mitigation 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 8: *Hazard Mitigation*. There may be instances where these measures are required by codes or standards⁴⁵⁴ (see Chapter 8: *Codes and Standards*). In these cases, the work is completed as part of the PA repair project and requires no additional cost-effectiveness evaluation. Resilience achieved beyond that which is required by codes and standards is implemented as PA Mitigation. All mitigation measures are subject to general eligibility requirements, including compliance with Environmental and Historic Preservation (EHP) laws, regulations, and EOs.

I. Drainage Structures

For Sections I.A and I.B (below), PA and EHP staff coordinate to determine whether a hydrologic and hydraulic (H&H) study is needed. The applicant must submit an H&H study to determine the appropriate culvert size with no adverse up or downstream impacts and National Flood Insurance Program regulations when:

- The facility is in a Special Flood Hazard Area;
 - There is a potential adverse impact to the floodplain⁴⁵⁵;
 - There is a potential adverse impact to a federally listed threatened or endangered species, critical habitat, or essential fish habitat⁴⁵⁶; or
 - It is required to demonstrate compliance with the Clean Water Act.
- A. Replace the structure with multiple structures or a larger structure. The applicant may use existing SLTT drainage criteria for sizing replacement culverts. The applicant must consider replacement structures with regard to the total drainage system.
- 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 rap⁴⁵⁷, sheet-piling, geotextile fabric, or similar measures to control erosion. Alternatively, the use of nature-based solutions, which includes vegetation or a combination of vegetation and construction materials such as live fascines, vegetated geogrids, live crib walls, brush mattresses, root wads, or similar measures are

⁴⁵⁴ 44 C.F.R. § 206.226(d).

⁴⁵⁵ 44 C.F.R. §§ 9.11(d)(4) and 60.3(b)(7), (c)(10), and (d)(3).

⁴⁵⁶ Endangered Species Act 16 U.S.C. §§ 1531-1544 and Magnuson-Stevens Fishery Conservation and Management Act.

⁴⁵⁷ Projects involving grouted rip rap may be subject to an environmental assessment and may not be allowable in all instances.

7660 eligible. The applicant should consider using nature-based solutions such as bioswales, bioretention,
7661 rain gardens, restored wetlands, restored floodplains and similar techniques that may be used in public
7662 drainage systems.

7663 C. Culverts

7664 1. Where the alignment of a culvert is inconsistent with existing water flow, realign the culvert vertically
7665 or horizontally or relocate the culvert to improve hydraulics and minimize erosion and scour. The
7666 applicant must consider realignment of structures with regard to the total drainage system.

7667 2. Extend the culvert discharge to mitigate erosion and scour by extending the discharge end beyond
7668 the toe of the embankment.

7669 3. Install a debris barrier to prevent debris blockage or fins designed to orient floating debris for
7670 passage through the culvert.

7671 4. Install a debris barrier riser to allow debris to float up with the rising floodwaters without blocking
7672 flow into the culvert.



7673 Example: Relief Culvert

7674 Adding a relief culvert located at the same crossing site as a damaged culvert and in the embankment
7675 above the flow line of the primary culvert or located upstream of the main culvert. A relief culvert
7676 provides an alternate route for the flow if the main culvert is over capacity or gets plugged and
7677 prevents sedimentation through the high-flow scouring action.

7678 II. Transportation Facilities

7679 A. Bridges

7680 1. Where traffic counts are low, replace with low-water crossings.

7681 2. Install cables to restrain a bridge from being knocked off piers or abutments during floods or
7682 earthquakes.

7683 3. Install girder and deck uplift tie-downs to prevent their displacement from the substructure.

7684 4. Install Longitudinal Peaked Stone Toe Protection with nature planting, upstream of a failed
7685 abutment, to provide a stable floodplain bench for the protection of the abutment and the adjoining
7686 bridge approach. Consider other relevant nature-based solutions such as engineered logjams, log
7687 vanes or log bendway weir.

7688 B. Marine Pier Ramps: If attached to decking, install open decking or floating decking with uplift-resistant
7689 tie-downs and fasteners.

7690 C. Roadways and Railways: Where shoulders are susceptible to overflow from adjacent water courses,
7691 stabilize shoulders and embankments with geotextile fabric (such as an erosion control blanket/rolled
7692 erosion control product (RECP) or a turf reinforcement mat) and revetments.

7693 D. Roadways: Use geotextile drainage blankets between the pavement section and subbase to strengthen
7694 subgrade.

7695 III. Mechanical, Electrical, Plumbing (MEP) Components

- 7696 A. Provide seismic bracing for electrical lines, conduit, piping, ductwork, water heaters, and other MEP
7697 equipment.
- 7698 B. Roof-Mounted Equipment: Secure to roof top via a continuous load path, using tie-downs, straps, or
7699 other anchoring systems that will resist expected wind forces.
- 7700 C. Elevate or dry floodproof components or systems vulnerable to flood damage, including equipment
7701 controls, electrical panels; heating, ventilation, and air conditioning/machinery rooms; emergency
7702 generators; and fuel tanks. When wiring cannot be elevated, replace with equipment suitable for
7703 submerged applications.
- 7704 D. Install switches, circuit isolation and/or quick connect capability to facilitate rapid connection of backup
7705 power for any damaged or susceptible mechanical and electrical components.
- 7706 E. Install camlocks, transfer switches, and electrical panels to facilitate the connection of portable
7707 emergency generators.

7708 IV. Pipes

- 7709 A. Install pipe joint restraints, flexible piping at pipe/conduit connections, or replace pipes with more ductile
7710 material.
- 7711 B. Install continuous lining or encasement to prevent infiltration or structural collapse.
- 7712 C. Underground Pipes: Install shut-off valves so that damaged sections of pipe can be isolated.

7713 V. Water/Wastewater

- 7714 A. Pumps: If pumps and their attached motors are damaged by stormwater inundation, replace them with
7715 submersible or inline pumps as appropriate.
- 7716 B. Sewer access covers: Elevate to the hydraulic grade line. When elevation is not feasible or practicable,
7717 install devices to prevent infiltration into access holes such as cast-iron watertight frames and covers.
- 7718 C. Well Systems: Seal exposed portions of well casing or raise the elevation of the well head to prevent
7719 infiltration of flood waters.
- 7720 D. Raw water intakes: Install buttressing to prevent damage from erosion, scour, and flood debris.

7721 VI. Electric Power Systems

- 7722 A. Provide looped distribution service or other redundancies in the electrical service to critical facilities,
7723 such as hospitals and fire stations.
- 7724 B. Install surge suppressors and lightning arrestors.
- 7725 C. Transformers:
- 7726 1. Elevate pad transformers above the Base Flood Elevation.
- 7727 2. Support pole-mounted transformers with multiple poles.
- 7728 D. Power Poles:

- 7729 1. Replace damaged poles with higher-rated poles (preferably two classes stronger) of the same or
7730 different material. When replacing poles with higher-rated poles, install guys and anchors to provide
7731 lateral support for poles supporting pole-mounted transformers, regulators, capacitor banks,
7732 reclosers, air-break switches, or other electrical distribution equipment.
- 7733 2. Remove large diameter lines.
- 7734 3. Add cross-bracing to H-frame poles to provide additional strength.
- 7735 4. Power Lines: Add guy-wires or additional support.

7736 VII. Storage Tanks

- 7737 A. Anchor or otherwise protect from movement by strengthening or stiffening base connections.
- 7738 B. Install self-initiating disconnects and shut-off valves between tanks and distribution lines to minimize
7739 damage and leaks.

7740 VIII. Buildings and Structures

- 7741 A. For small support buildings subject to uplift or rollover from high winds, securely anchor the buildings to
7742 foundations to prevent toppling or becoming missile hazards.
- 7743 B. Elevate, wet floodproof or dry floodproof buildings. Dry floodproofing may include installing flood barriers.
7744 Wet or dryproofing may include nature-based solutions such as rain gardens, bioswales, constructed or
7745 restored wetlands that reduce flood risk. Nature based solutions used alone however do not provide wet
7746 or dryproofing.
- 7747 C. Footings: Where spread footings have been undercut by scour, underpin footings.
- 7748 D. Siding: Replace with a stronger siding to prevent future disaster damage (e.g., wind, wildfire, etc.) with
7749 stronger attachments to the wall sheathing and structure.
- 7750 E. Vents: Replace with water-resistant vents.
- 7751 F. Non-structural Building Components: Brace interior walls, partitions, parapets, anchor veneer or
7752 cladding, suspended light features, drop ceilings, soffits, and other non-structural elements that could
7753 collapse and cause injury or block safe exit of a building during an earthquake or high-wind event.
- 7754 G. Furnishings: Provide seismic ties, straps, or clips to secure replaced furniture, cabinets, computers,
7755 bookcases, and other furnishings.
- 7756 H. For buildings and structures outside of the wildland-urban interface (where FEMA building code policy
7757 already requires these mitigation measures), create defensible space around facilities or structures with
7758 wildfire risk by removing or reducing the volume of flammable vegetation. The volume of vegetation
7759 should be minimized (e.g., hardscaping) by thinning or replacing flammable vegetation with less
7760 flammable, non-invasive species. Less flammable vegetation includes high-moisture plants, trees with
7761 low sap or resin content, plants with thick leaves, and drought tolerant vegetation. Native species are
7762 preferable as non-native options are less likely to withstand weather conditions, creating a fire risk.
- 7763 I. For buildings and structures outside of the wildland-urban interface (where FEMA building code policy
7764 already requires these mitigation measures), non-combustible construction materials: Replace and
7765 upgrade construction materials with non-combustible alternatives for facilities with wildfire risk.
- 7766 J. Roofs:

- 7767 1. Install hurricane clips, fasteners, anchors, straps, and connectors that are compatible with the roof
7768 system and corrosion-resistant in coastal areas.
- 7769 2. Strengthen the high-wind pressure areas (e.g., corner zones, roof soffits, overhangs).
- 7770 3. Strengthen roof openings, such as hatches and skylights.
- 7771 4. Low Slope Roofs: Replace and upgrade materials for entire roof covering with a fully adhered roof
7772 covering, such as a modified bitumen membrane roof. FEMA does not provide PA mitigation funding
7773 for loose laid insulation or membranes as punctures can cause large amounts of water intrusion.
7774 Additionally, FEMA does not provide PA mitigation funding for loose laid roof membranes with loose
7775 ballast stones as the stones can become projectiles in high winds and cause damage.
- 7776 5. Gable Roofs: Replace and upgrade materials for the gable-end framing with hipped roof framing to
7777 reduce wind forces (lower edge pressure; reduced projected wind area) and strengthen the roof
7778 framing.
- 7779 6. Gutters and Downspouts: Upgrade to direct water away from the structure to prevent interior or
7780 basement water damage.
- 7781 K. Doors and Windows:
- 7782 1. Upgrade the weather stripping to prevent water infiltration.
- 7783 2. Replace doors, door frames, hinges, and hardware with wind-resistant units.
- 7784 3. Strengthen windows.
- 7785 4. Replace glass with impact-resistant material.
- 7786 5. Install shutters on windows:
- 7787 a. Of critical facilities, such as hospitals.
- 7788 b. On the lower floors of noncritical facilities most likely to be struck by debris.
- 7789 c. Of buildings with very high-value contents that can be damaged by water (such as libraries and
7790 document centers).
- 7791 d. Of buildings when failure of roofing materials or other portions of nearby structures could create
7792 impact hazards.

7793 IX. Signage

- 7794 A. Replace sign panels and their supports with a stronger type of system of supports and panels.
7795 Consider using multiple support posts and stronger panels and fasteners.
- 7796