The Public Assistance Program

Program Objectives

The objective of the Public Assistance Program is to provide assistance to states, local governments, and selected nonprofit organizations for the alleviation of suffering and hardship resulting from major disasters or emergencies declared by the President. This is a cost share program. The Federal Government provides 75% and the local governmental share is 25% of eligible reimbursable disaster costs. Costs under $1,000 per project are not eligible.

WHO IS ELIGIBLE

A. State and Local Governments, and Special Districts

- Local Governments

  Any county, city, town, district, or other political subdivision of any state and includes any rural community, unincorporated town or village, or other public entity for which an application for assistance is made by a state or political subdivision thereof.

- Other Political Subdivisions

  Other state and local political subdivisions may be eligible if they are formed in accordance with state law as a separate entity and having taxing authority. These include, but are not limited to, school districts, irrigation districts, fire districts, and utility districts.

B. Private Nonprofit Organizations

All facilities must provide an essential governmental service and be open to the general public.

1. Educational Institutions

   A. Colleges and universities
   B. Parochial and other private schools

2. Utility

   Systems of energy, communication, water supply, sewage collection and treatment, or other similar public service facilities.

3. Emergency

   Fire Protection, ambulance, police, rescue and similar emergency services.

4. Medical

Hospital, outpatient facility, rehabilitation facility, or facility for long-term care for mental or physical injury or disease.

5. Custodial Care

Homes for the elderly and similar facilities that provide institutional care for persons who require close supervision, but do not require day-to-day medical care.

6. Other Essential Governmental Service Facilities

Museums, zoos, community centers, libraries, homeless shelters, senior citizen centers, rehabilitation facilities, shelter workshops and facilities that provide health and safety services of a governmental nature. Health and safety services are essential services that are commonly provided by all local governments and directly affect the health and safety of individuals. Low-income housing, alcohol and drug rehabilitation, programs for battered spouses, transportation to medical facilities, and food programs are examples of health services.

GENERAL WORK ELIGIBILITY

A. An Eligible Item of Work Must

- Be required as the result of a major disaster event,
- Be located within a designated disaster area, and
- Be the legal responsibility of an eligible applicant.

B. Other Federal Agency (OFA) Programs

FEMA will not provide assistance when another federal agency has specific authority to restore facilities damaged by a major disaster.

C. Negligence

No assistance will be provided to an applicant for damages caused by its own negligence. If negligence by another party results in damages, assistance may be provided on the condition that the applicant agrees to cooperate with FEMA in all efforts to recover the costs of such assistance from the negligent party.

D. Restrictions

1. Alternative Use Facilities

If a facility was being used for purposes other than those for which it was designed, restoration will only be eligible to the extent necessary to restore the immediate pre-disaster alternative purpose.

2. Inactive Facilities

Facilities that were not in active use at the time of the disaster are not eligible except in those instances where the facilities were only temporarily inoperative for repairs or remodeling, or where active use by the applicant was firmly established in an approved budget, or where the owner can demonstrate to FEMA's satisfaction an intent to begin use within a reasonable time.

3. Routine maintenance is not eligible.

CATEGORY A
DEBRIS REMOVAL

EMERGENCY WORK

A. Public Interest Determination By FEMA

- Eliminate immediate threats to life, public health and safety; or
- Eliminate immediate threats of significant damage to improved public or private property; or
- Ensure economic recovery of the affected community to the benefit of the community-at-large.

B. Private Property Debris Removal

- When in the public interest for an eligible applicant to remove debris:
- On urban, suburban and rural property.
- Including large lots, living, recreational and working areas except areas used for crops and livestock, or unused areas.
- No assistance will be provided to individuals or private organizations for removing debris from their own property except for eligible private nonprofit applicants.
- Right of Entry Agreement must be obtained to indemnify federal, state and local governments against any claim arising from such removal.

CATEGORY B

EMERGENCY PROTECTIVE MEASURES

A. General

- Measures to save lives, to protect public health and safety, and to protect improved property, are eligible. In order to be eligible, emergency protective measures for property must eliminate or lessen immediate threats of significant damage to improved public or private property through measures that are cost-effective.

PERMANENT RESTORATION OF FACILITIES

A. General Eligibility

- Facilities will be restored on the basis of design of such facilities as they existed immediately prior to the disaster and in conformity with applicable standards.
- Codes and Standards must be in writing and formally adopted prior to project approval, and they must apply uniformly to all similar types of facilities within the jurisdiction.
- Hazard mitigation measures, which are cost-effective, may be required by FEMA. Any requirement for hazard mitigation placed on applicants by FEMA will be eligible. Applicants may and are encouraged to suggest hazard mitigation measures.
- A facility is considered repairable when disaster damages do not exceed 50% of the cost of replacing a facility so that it can perform the function for which it was being used as well as it did immediately prior to the disaster. Conduct a repair versus replacement analysis if repairs to a facility would appear to cost 50% or more of the costs of replacing the facility. For further particulars, see FEMA Public Assistance Guide .

CATEGORY C

ROAD SYSTEMS

A. Repairs and Replacements

The damage must be directly related to the disaster. It cannot be a pre-existing condition nor caused by an event after the official period of incidence. Repairs to structures may be made when the estimated repair cost is less than the estimated replacement cost, unless the structure is damaged greater than 50%. If a structure is damaged to the extent that repairs exceed 50% of the replacement costs funding may be provided to replace the structure. The applicant also may choose to make repairs; however the funding provided will be limited to the cost of replacement.

B. Road Repairs

On gravel roads, the base need not be damaged to be eligible for major gravel replacement. Loss of gravel must be evident. Potholes and rutted surfaces must be shown to be a result of the disaster event.

C. Paving

Loss of paved surface is eligible. An "alligatored" surface is generally a sign of normal deterioration and is not eligible.

D. Standards

Bridge and road standards that have been formally adopted and are in practice, or adopted and placed in effect prior to project approval by the applicant, are eligible. The standards must apply to work accomplished using all sources of funds, and not limited to work receiving state and/or federal aid. A copy of standards and council meeting minutes approving the standards should be maintained in the permanent applicant file.

E. On-System Facilities

Facilities funded by other federal agencies, such as the Federal Highway Administration (FHWA), are not eligible for permanent repair. Debris removal and emergency measures are eligible on federal-aid roads except where the Emergency Relief (ER) program of the FHWA is activated. For further particulars, see FEMA Public Assistance Guide.

F. Scheduled Replacement

Facilities are not eligible if scheduled for replacement within the next 12 months using federal funds.

CATEGORY D

WATER CONTROL FACILITIES

(Usually Emergency Work only is eligible for State or local government owned facilities; Levees in disrepair or with no record of routine maintenance are not eligible)

A. Levees and Dams

If the levee or dam meets the definition of a flood control work and thus falls within the authority of the U.S. Army corps of Engineers (USACE) or Natural Resources Conservation Service (NRCS), it is not eligible.

B. Drainage Channels

Restore to pre-flood hydraulic capacity. The USACE or NRCS may be involved in some flood channels; in these cases, drainage channels are not eligible. Manmade channels must show evidence of routine maintenance. Appropriate documentation should be placed in permanent applicant file.

C. Natural Streams

Debris removal from natural streams is not normally eligible for FEMA assistance. Natural Resources Conservation Service (NRCS) is generally responsible for funding debris removal from streams. Only debris that causes a threat to lives, public health and safety, or damage to improved property from a 5-year flood event, may be

eligible. Work to protect improved property must have a favorable ratio of benefits to costs. Any work in natural streams must also be closely reviewed and monitored to minimize undesirable environmental effects.

D. Seeding and Sodding

Seeding, grass, and sod will be eligible only when necessary to stabilize slopes and minimize sediment runoff. Seeding, grass, and sod will not be eligible for cosmetic purposes.

E. Debris

Disaster-caused debris in catch basins and channels is eligible for removal if no pre-existing condition can be established.

CATEGORY E

PUBLIC BUILDINGS AND EQUIPMENT

A. Restoration

Buildings are to be restored to pre-disaster design capacity in accordance with present codes and standards.

B. Use and Occupancy

The building must have been in active use prior to the disaster. If only part of the building was occupied at the time of the disaster, or if the building was being used for a less demanding function than its original purpose, then replacement will be made at the reduced size, or restoration will be limited to that required to resume the immediate pre-disaster use.

C. Extensive Damage

If repairs to a facility would cost 50% or more of the cost of replacing the facility to its pre-disaster design, then the facility is eligible for replacement. This is known as the "50% Rule", and is discussed in detail in the FEMA Public Assistance Guide.

D. Insurance

Check on insurance presently in force. Insurance coverage pays first. Uninsured losses are eligible. If repair costs exceed $5,000, a general hazard insurance comment will be required equal to the amount of damages. Repair costs for flood damages occurring to buildings and/or contents within the 100-year flood zone will be reduced by the amount that would have been available from a standard NFIP flood policy whether or not the facility was actually insured.

E. Equipment

Office equipment and furniture should be replaced with used or surplus, if available. Repair if feasible.

F. Supplies

Consumable supplies will be replaced to pre-disaster quantities.

G. Vehicles

Special equipment, such as two-way radios, is eligible. Blue book prices should be used and salvage taken. Check for comprehensive insurance.

H. Grounds

Grounds around buildings may be included with building structure if it is to be handled as a single project, except trees and other plantings, which are not eligible.

I. Cleaning

For buildings with light damage, cleaning and painting is eligible.

J. Worship Facilities

Buildings that are used primarily for worship or religious education purposes are not eligible.

CATEGORY F

PUBLIC FACILITIES

A. Electrical

Restore to pre-disaster condition in the most economical manner. Extra pole structures are sometimes necessary to restore the function when erosion has destroyed stream banks and ground clearance has to be maintained over longer distances.

B. Sewer Collapse

Visual evidence of ground subsidence indicating infiltration into the pipe must be present.

C. TV Inspection

Limited TV inspection is eligible when damage is apparent. Use of TV inspection to search for problems is not eligible.

D. Cleaning

Cleaning of disaster-related debris from sewer lines is eligible only when necessary to restore adequate functioning of the system in specific reaches if no pre-existing condition can be established.

E. Revenues

Loss of revenue is not eligible. Added costs or charges for providing regular utility services are not eligible.

CATEGORY G

PARKS, RECREATIONAL, AND OTHER

A. Grass

Grass, seeding, and sod are eligible only when necessary to stabilize slopes and minimize sediment runoff. Grass, seeding, and sod are not eligible for cosmetic purposes.

B. Trees

Trees and other plantings are not eligible.

C. Damage Estimates

All structure and damage sites within a park may be included as a single project if repair or contract is being handled that way. They can be claimed separately, if desired.

D. Beaches

To be eligible, a beach must have been improved and regularly maintained prior to the disaster. Maintain documentation in permanent applicant file. Permanent restoration of the sand on natural beaches is not eligible. (Also see Emergency Protective Measures.)

COST ELIGIBILITY

FORCE ACCOUNT COST

A. Personnel

Reimbursement of salaries and wages (including regular time, overtime, fringe benefits, and compensatory time) of employees will be paid on eligible disaster

permanent work. For emergency work, only overtime of regular employees plus all time of extra hires will be paid.

B. Applicant-Owned Equipment

Reimbursement for equipment used on eligible disaster-related work is based on the FEMA rate schedule or the applicant's established rates, whichever is lower, unless the applicant's rates are considerably lower and the applicant certifies that the rates do not reflect actual costs.

C. Materials

Costs of materials and supplies used in eligible disaster-related work are eligible.

CONTRACT COSTS

Reasonable contract costs, including equipment rental, for eligible disaster-related work are eligible.

Contracts must be of reasonable cost, generally must be competitively bid and comply with Federal, State and Local procurement standards. FEMA regulations at 44 CFR Part 13 – *Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments* provide specific guidance on contracts. State of Indiana regulations are found in IC 5-22-7, IC 5-22-8, IC 5-22-10, IC 10-14-3.17 (j) (5), and IC 36-1-12.9

IC 36-1-12-9
Emergencies; contracts by invitation
Sec. 9. (a) The board, upon a declaration of emergency, may contract for a public work project without advertising for bids if bids or quotes are invited from at least two (2) persons known to deal in the public work required to be done.
(b) The minutes of the board must show the declaration of emergency and the names of the persons invited to bid or provide quotes.
As added by Acts 1981, P.L.57, SEC.38. Amended by P.L.329-1985, SEC.21.

Other PA Program Eligibility Requirements

ENVIRONMENTAL AND HISTORIC CONCERNS

- Public Assistance projects must comply with all applicable environmental and historical preservation laws and regulations.
- Proper permits and reviews must be obtained before permanent restorative work can begin
- Projects begun without proper permits or FEMA reviews will lose all funding
- Any work *in or near* a lake or stream requires a permit from DNR unless the work falls under a categorical exclusion

CODES & STANDARDS

- The cost of upgrades required to meet current specific requirements or codes and standards which can include federal requirements may be eligible
- Upgrades must apply to the repairs being done
- Upgrades must be appropriate to the pre-disaster use of the building
- Upgrades must be reasonable, in writing, formally adopted, and implemented prior to disaster declaration date
- Upgrade requirements must apply uniformly to all facilities of the type being repaired
- Upgrade requirements must be enforced locally and applicant must be able to show enforcement documentation

DONATED RESOURCES

- Creditable toward the non-federal share of eligible emergency work **ONLY**
  - Emergency Work: Work that is essential to meet the immediate threats to life and property
- May offset the cost of non-federal share of eligible Category A and B costs
- Resources donated must be documented by a local public official
- Donated Resources are documented on a FEMA Project Worksheet:
  - Record of hours worked
  - The work site
  - Description of work for each volunteer
  - Equivalent information for equipment and materials
  - FEMA calculates the value of donated resources based on a formula
- PW is paid to applicant to help pay the applicant share

FEMA REIMBURSABLE MUTUAL AID

- Agreement for payment applies uniformly in **ALL** emergencies
- Agreement for payment is **NOT** contingent on federal funding
- Applicant must show a history of payment for Mutual Aid
- See FEMA Mutual Aid Policy

ADMINISTRATIVE COSTS

On October 11, 2007, FEMA published an interim final rule on Management Costs (72 FR 57869).

Under 44CFR 207, States will provided a set percentage of projected Federal program dollars for grantee and subgrantee management. States, as grantees, will determine subgrantee contributions. Subgrantee administrative allowance is based on a percentage of net eligible costs. The applicant (subgrantee) administrative allowance can be up to 1% of net eligible costs with a limit of $20,000 per applicant.

All management costs, both grantee and subgrantee, must be documented to receive reimbursement, per FEMA. The State has designated a one percent (1%) subgrantee Management Costs for a major disaster or emergency. This percentage will be reviewed and may be changed per disaster and/or yearly.

INSURANCE

- Actual or anticipated insurance recoveries shall be deducted from otherwise eligible costs.
- When insurance is required as a condition of approval for projects amounting to $5,000 or more, the state must provide FEMA with acceptable assurances that the applicant has obtained and will maintain insurance for the approved damaged facility or piece of equipment.
- No assistance will be provided for any facility for which assistance was previously received unless the insurance was obtained and maintained as required.

APPLICATION PROCESS

Request for Public Assistance

The Request for Public Assistance form must be submitted by the applicant to the State within 30 days of designation of an area for each applicant requesting Public Assistance. This should be done during the **Applicant Briefing Meeting.**

Kickoff Meeting

FEMA will contact applicants to set up kickoff meetings after the Request for Assistance form is processed. Bring your projects and cost documentation to this meeting.

Project Funding

- Small Projects-Approved estimate is less than $63,900

Final payment of the federal share may be made by the grantee upon approval of the project by FEMA.

- Large Projects-Approved estimate of $63,900 or more

Payment will be made based upon state law, 44 CFR Part 13 and 31 CFR Part 205 and the approved State Administrative Plan.

Funding Options:

Alternate Projects-"Large In-Lieu Contributions"-(1) For public facilities-(A) In General.-In any case in which a State or local government determines that the public welfare would not be best served by repairing, restoring, reconstructing, or

replacing any public facility owned or controlled by the State or local government, the State or local government may elect to receive, in lieu of a contribution under subsection (a)(1)(A), a contribution in an amount equal to 90 percent of the Federal share (75%) of the Federal estimate of the cost of repairing, restoring, reconstructing, or replacing the facility and of management expenses.

Improved Projects- restore a damaged facility beyond pre-disaster condition with additional improvements. Improved Projects ***must be approved by FEMA and SHPO before construction***. Funding is limited to pre-disaster condition.

Use of Local Firms and Individuals

To assist in economical recovery of a disaster area, FEMA recommends that preference be given, to the extent practicable, to organizations, firms and individuals who reside or do business primarily in the area affected by the disaster and who have appropriate contracting capability. Local preference should be mentioned in the invitation for bids and requests for proposal. ***Remember all State and Federal bid requirements must be followed to receive reimbursement.***

Time Limits for completion of Work

- Debris removal 6 months
- Emergency work 6 months
- Permanent work 18 months

Exceptions

- The state may impose lesser deadlines for completion of work.
- If requested by the applicant, the state may extend debris clearance and emergency work deadlines for an additional 6 months and permanent work deadlines for an additional 30 months if the reason for the request is based on extenuating circumstances or unusual project requirements beyond the control of the applicant. See Time Extension Request form enclosed with Record Keeping forms.
- FEMA may further extend deadlines when justified.

Cost overruns

- The state will evaluate subgrantee requests for cost overruns and, when justified, submit the request to FEMA for final determination. All requests must contain sufficient documentation to support eligibility of all work and costs claimed.
- For small projects (less than $63,900) overruns, the applicant's request must include documentation for the actual cost of all small projects to show that the net overrun is significant before approval will be considered.

Documentation

All disaster costs must be supported by documentation, including timesheets for personnel, equipment use records, invoices for materials, and all contracting documents related to work accomplished by contracts. See Applicant Record-Keeping Forms & Instructions. The FEMA 2008 Equipment rate schedule can be downloaded or printed from FEMA's website: http://www.fema.gov. The completed and signed P-4 will be required for disaster project payment and closeout. For more information, FEMA's Applicant Handbook and Public Assistance Guide are available for downloading or printing at the same site.

APPEALS

1. The subgrantee may appeal any determination related to Federal assistance including, but not limited to, time extension denials, eligibility, and approved costs.

2. The subgrantee's appeal shall be made in writing and submitted to the grantee within 60 days after receipt of notice of the action which is being appealed. The appeal must contain documented justification supporting the subgrantee's position.

3. The grantee shall review the appeal, make additional investigations as necessary and forward the appeal with a recommendation to FEMA within 60 days.

4. FEMA shall review the appeal and notify the grantee within 90 days following receipt of an appeal as to the disposition of the appeal or if more information is needed.

5. If the FEMA region denies an appeal, the subgrantee may submit a second appeal within 60 days through grantee and region to the FEMA Associate Director.

6. The Associate Director shall render a determination on the appeal within 90 days following receipt of the appeal or shall request additional information if necessary.

7. If the Associate Director denies an appeal, the subgrantee may submit a third appeal to the FEMA Director through the grantee and FEMA region within 60 days of the Associate Director's denials.

8. The Director shall render a determination on the subgrantee's appeal within 90 days following receipt of the appeal or may request additional information if necessary.

AUDITS

A. State, Local governments and Non-Profit organizations which expend $300,000 or more in total Federal assistance during a fiscal year, shall have an audit performed in accordance with the Single Act of 1984 and Office of Management and Budget (OMB) Circular No. A-133.

B. Subgrantees that are required to have audits performed shall report the results of their single audit to the DHS in accordance with OMB Circular A-133 for each fiscal year that Public Assistance funding was received and they meet the minimum funding threshold in accordance with OMB Circular A-133.

APPLICANT'S RESPONSIBILITIES
PROJECT WORKSHEET COMPILATION

In preparation for the Federal-State inspection team applicants should take the following actions in order to expedite the preparation of project worksheets and to help produce more accurate estimates.

1. Identify all damage sites before the inspectors arrive and mark the damage site locations on a map.

2. Actual documented costs for all work completed must be provided to the inspection team when they arrive. The documented costs for completed work must be broken down by location and by type of work. The documentation must show force account labor, equipment and materials and/or contract costs.

3. The local representative must be prepared to show damage sites to the team and must provide the documentation for actual costs of completed work.

4. The local representative must assist with developing estimates for work to be completed based on past experience and local prices.

5. The FEMA equipment schedule will be used for all force equipment use unless an established local schedule is less or unless a State schedule is normally used by the applicant.

6. Provide information on insurance that may cover any damaged facilities.

7. Provide copies of codes or standards if any upgrades are proposed to conform to codes or standards. Suggest mitigation measures for damaged sites.

8. Maintain records to document costs for disaster recovery work. Cost must be documented for each project worksheet.

LARGE PROJECT CLOSEOUT DOCUMENTATION

1. A letter to the State PAO requesting and identifying the overrun/under-run amount requested or that nothing is needed other than closeout with no change in amount. If more than one closeout action is requested, very clearly separate the individual actions requested.

2. A summary sheet identifying documented sub-total cost for various eligible expenses, e.g. force account labor, material, equipment and materials; contract costs by contract.

3. Identify what portion of the total claimed costs were documented as "work completed" at time of inspection.

4. Backup documentation to support the summary sheet totals.

5. Clearly marked and properly collated supporting documentation, e.g. tabbed, stapled or clipped, so that the FEMA closeout person can quickly cross-reference elements and spot-check/verify requested amounts.

6. Documentation to support any of the base data that was used to establish reimbursement basis, e.g. fringe rate calculations or equipment rates.

7. Copies of any and all **required permits**, insurance commitments or any other, not previously submitted verification of satisfaction of any requirements reflected in the PW.

8. Identify if this action closes the applicant for that disaster. Enclose the completed, signed and dated P-4, Project Completion & Certification Report.

SMALL PROJECT CLOSEOUT DOCUMENTATION

1. Small projects are paid based on the completion of the scope of work written for the project. This may not always be the same as the estimated cost. Documentation is required to show completion of scope of work. Payment is based on the estimated cost shown on the P-4.

2. Same as large Project Closeout except disregard (1).

3. For (1) a letter to the State PAO requesting additional funding for small project overruns must include documented totals for all small projects. If there is still a significant overrun cost after totalling all small projects, clearly identify the "overrun" costs you are requesting.

Notes