

FOREWORD

In recent years, tremendous strides have been made by Federal, State, and local governments to educate the public about natural disasters. Localities are now better able to respond to disasters, recover from their impact, and mitigate future damage under programs such as *Project Impact: Building Disaster Resistant Communities*. However, it remains a fact that in situations of catastrophic proportions, nothing that technology or preparedness has provided can prevent the inherent discontinuity in our lives caused by major disasters. Such events must be responded to through a cooperative Federal, State, and local effort.

When a disaster occurs, it is the responsibility first of the local community and then the State to respond. Often, their combined efforts are not sufficient to cope effectively with the direct results of the disaster. This situation calls for Federal assistance to supplement State and local efforts. The Robert T. Stafford Disaster Relief and Emergency Assistance Act, Public Law 93-288, as amended, authorizes the President to provide such assistance. Assistance is coordinated through the Federal Emergency Management Agency (FEMA). This guide explains the portion of the law that provides Federal grants for infrastructure recovery through the Public Assistance (PA) Program. Potential recipients of this funding include State and local governments and certain types of Private Nonprofit (PNP) organizations.

Recently, we redesigned the PA Program. This redesign touched on all aspects of the program, including the *people* who administer the program, the *processes* used to deliver assistance, the governing *policies*, and the *performance* necessary to ensure that expectations are realized. Grant applicants will find that the program now emphasizes better, more personal customer service and a streamlined system for obtaining funding. A fundamental principle of the redesigned program is to ensure that everyone shares a common understanding of the program policies and procedures. To support this principle, FEMA has undertaken an effort to provide the State and local partners with more and better information about the PA Program.

This guide describes the PA Program's basic provisions and application procedures. The guide may be of interest to elected leaders, city engineers, public works directors, financial management personnel, managers of eligible PNP organizations, and other individuals who have the responsibility for restoring a community's infrastructure in the wake of a disaster. An electronic version is available on the FEMA website (go to www.fema.gov; click on [Disaster Assistance](#), click on [Public Assistance](#), and then click on [Policy](#).) Because this document is not exhaustive and the provisions are subject to modification, the information contained herein should be verified with FEMA PA Program officials before becoming the basis for decision making.

This guide replaces FEMA 286, issued in September 1996. We invite comments that will make it as helpful as possible to all users, applicants, and administrators of public assistance. Please send your comments, as well as any other suggestions on ways to improve the program, to:

Director, Infrastructure Division, Room 713
Response and Recovery Directorate
Federal Emergency Management Agency
500 C Street, SW
Washington, D.C. 20472

With a shared understanding of the program and through a partnership with all participants, we expect to efficiently, effectively, and consistently provide recovery grant funding to all eligible applicants whose lives and infrastructure have been disrupted by disaster.



James L. Witt
Director

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ACRONYMS USED IN THIS GUIDE

CBRA	Coastal Barrier Resources Act
CBRS	Coastal Barrier Resources System
CFR	Code of Federal Regulations
DFO	Disaster Field Office
DRM	Disaster Recovery Manager
EAD	Executive Associate Director, Response and Recovery Directorate (FEMA)
EO	Executive Order
ER	Emergency Relief (FHWA Assistance Program)
FCO	Federal Coordinating Officer
FEMA	Federal Emergency Management Agency
FHWA	Federal Highway Administration
FIRM	Flood Insurance Rate Map
GAR	Governor's Authorized Representative
NRCS	Natural Resources Conservation Service
NEPA	National Environmental Policy Act
NFIP	National Flood Insurance Program
NHPA	National Historic Preservation Act
PA	Public Assistance
PAC	Public Assistance Coordinator
PAO	Public Assistance Officer
PDA	Preliminary Damage Assessment
PNP	Private Nonprofit
<i>PW</i>	<i>Project Worksheet</i>
RD	Regional Director (FEMA)
USACE	U.S. Army Corps of Engineers
USFWS	U.S. Fish and Wildlife Service

CHAPTER 1

DISASTER ASSISTANCE OVERVIEW

Federal assistance in the wake of disasters is coordinated by the Federal Emergency Management Agency (FEMA). Under the Public Assistance (PA) Program, FEMA provides supplemental aid to communities and States¹ to help them recover from disasters as quickly as possible. This chapter describes the events that occur after a disaster strikes and provides an introduction to the PA Program.

When Disaster Strikes

Each year, the United States is struck by disasters that severely affect communities and State and local governments. The list of events that cause disasters includes natural events, such as hurricanes, tornadoes, storms, floods, earthquakes, fires, volcanic eruptions, landslides, snowstorms, and droughts, and non-natural events, such as fires, floods, and explosions caused by human activities. The effects of disasters may be limited to a single community, such as when a small town is hit by a tornado, or they may be widespread, such as when a hurricane affects several States. Regardless of the scope of a disaster, the affected communities and States often need the assistance of the Federal government when responding to and recovering from the event. This assistance is available under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, Public Law 93-288, as amended, 42 U.S.C. §5121, et seq. (hereinafter referred to as the Stafford Act).

Communities are responsible for the protection of their residents, and local emergency response forces will always be the first line of defense when a disaster strikes. The intent of the Stafford

¹ For purposes of this document, the term "State" refers to the Grantee. Grantees include the States, the District of Columbia, U.S. territories, and insular areas; and can include Indian tribes and Alaskan Native tribal

Act is that Federal assistance be supplemental to local and State efforts aided by private relief organizations. Nevertheless, it is not necessary for the community to exhaust its resources before it requests Federal assistance.

When a disaster occurs and a locality has responded to the best of its ability and is, or will be, overwhelmed by the magnitude of the damage, the community turns to the State for help. The Governor, after examining the situation, may direct that the State's emergency plan be executed, direct the use of State police or the National Guard, or commit other resources, as appropriate to the situation. If it is evident that the situation is or will be beyond the combined capabilities of the local and State resources, the Governor may request that the President declare, under the authority of the Stafford Act, that an emergency or major disaster exists in the State.

While this request is being processed, local and State government officials should not delay in taking the necessary response and recovery actions. Such actions should not be dependent upon whether there will be Federal assistance. A list of actions that local officials may want to follow in disaster situations is attached as Appendix A.

Declaration Process

The request for a declaration must come from the Governor or Acting Governor. Before sending a formal request letter to the President, the Governor should request that FEMA conduct a joint Preliminary Damage Assessment (PDA) with the State to verify damage and estimate the amount of supplemental assistance that will be needed. After this assessment is complete, if the Governor believes that Federal assistance is necessary, the Governor sends the request letter to the President, directed through the Regional Director (RD) of the appropriate FEMA

region. The request is reviewed by the RD and forwarded with a recommendation to the Director of FEMA who, in turn, makes a recommendation to the President. The President makes the decision whether to declare a major disaster or emergency. After the initial declaration, the person designated by the Governor as the Governor's Authorized Representative (GAR) may make requests for additional areas to be eligible for assistance or for additional types of assistance as deemed necessary.

After a declaration is made, FEMA will designate the area eligible for assistance and the types of assistance available. With the declaration, a Federal Coordinating Officer (FCO) is appointed. The FCO is responsible for coordinating all Federal disaster assistance programs administered by FEMA, other Federal departments and agencies, and voluntary organizations. At the same time, the RD or one of his or her staff will be appointed as the Disaster Recovery Manager (DRM). The DRM is responsible for managing the FEMA assistance programs. These two titles (FCO and DRM) are most often held by the same person. The Governor may appoint a State Coordinating Officer as the FCO's counterpart. The State Coordinating Officer and the GAR are generally the same person.

FEMA also establishes a Disaster Field Office (DFO) in or near the disaster area. This office is used by Federal and State staff and is the focal point of disaster recovery operations. FEMA and the State manage the implementation of the PA Program from the DFO.

The PA Program

Under the PA Program, which is authorized by the Stafford Act, FEMA awards grants to assist State and local governments and certain Private Nonprofit (PNP) entities with the response to and recovery from disasters. Specifically, the program provides

assistance for debris removal, implementation of emergency protective measures, and permanent restoration of infrastructure. The program also encourages protection from future damage by providing assistance for hazard mitigation measures during the recovery process. The Federal share of these expenses cannot be less than 75 percent of eligible costs.

The PA Program is based on a partnership between FEMA, State, and local officials. FEMA is responsible for managing the program, approving grants, and providing technical assistance to the State and applicants. The State educates potential applicants, works with FEMA to manage the program, and is responsible for implementing and monitoring the grants awarded under the program. Local officials are responsible for identifying damage, providing information necessary for FEMA to approve grants, and managing the projects funded under the PA Program.

The PA Program is managed at the DFO by the Public Assistance Officer (PAO). As the program manager, the PAO advises the FCO on all PA Program matters; manages the operation of PA Program staff and any coordination between the PA Program and other arms of the Federal disaster recovery effort; works with State counterparts; and ensures that the PA Program is operating in compliance with all laws, regulations, and policies.

The PA Program staff consists of field personnel who assist the applicant during the recovery process. These staff members include Public Assistance Coordinators (PACs), Project Officers, and Specialists. The duties of each are described below.

Public Assistance Coordinator. At the beginning of the disaster recovery process, a PAC is assigned to each applicant. The PAC is a customer service manager who works with the applicant to resolve disaster-related needs and ensure that the applicant's projects are processed as efficiently and expeditiously as possible. By being involved from the declaration to the obligation of funds, the PAC ensures continuity of service throughout the delivery of the

PA Program. A PAC generally has responsibility for more than one applicant. The PAC's specific responsibilities are described in more detail in Chapter 3.

Project Officers and Specialists. Project Officers and Specialists are resources for the applicant. Typically, Project Officers are responsible for assisting applicants with the development of projects and cost estimates. While a Project Officer is generally knowledgeable with regard to the PA Program, a Specialist usually has a defined area of expertise that a Project Officer may call upon in the development of a specific project. Specialists assigned to a DFO may have experience in such areas as roads and bridges, utility infrastructure, debris removal and disposal, environmental and historic compliance, insurance, and cost estimating. The Project Officer's and Specialist's specific responsibilities are described in more detail in Chapter 3.

State personnel may also be assigned to work with FEMA staff and with local officials involved with response and recovery efforts.

Once the DFO is established and appropriate FEMA and State personnel are deployed, applicants can begin the process of requesting and receiving public assistance. The remainder of this guide:

- outlines the eligibility requirements of the PA Program, including a detailed discussion of the applicants, facilities, types of work, and costs that are eligible for assistance under the PA Program (Chapter 2);
- describes the process of applying for public assistance, including a discussion of the project formulation process and the Federal, State, and applicant roles and responsibilities in development of projects, scopes of work, and cost estimates (Chapter 3);

- identifies the floodplain management issues, insurance requirements, hazard mitigation opportunities, environmental concerns, and historical preservation issues that affect program processing and funding (Chapter 4); and
- discusses project management operations (Chapter 5).

CHAPTER 2

ELIGIBILITY

Governing Documents

The PA Program is based on a hierarchy of statute, regulations, and policies. The statute is the underlying action that authorizes the program. From the statute, regulations are created to outline program operations, and policies are written to apply the statute and regulations to specific situations. These documents govern the eligibility criteria through which FEMA provides funds for public assistance.

Additional laws, Executive Orders, and regulations that affect the administration of the PA Program are described in Chapter 4.

Statute

Statutes are laws passed by the U.S. Congress and signed by the President. They cannot be changed by FEMA or any other government agency. The law that authorizes the PA Program is the Stafford Act. The basic provisions outlined in the Stafford Act:

- give FEMA the authority to administer Federal disaster assistance;
- define the extent of coverage and eligibility criteria of the major disaster assistance programs;
- authorize grants to the States; and
- define the minimum Federal cost-sharing levels.

The Stafford Act is included in Appendix B for your reference.

Regulations

Regulations are rules designed to implement a statute based on an agency's interpretation of that statute. Such rules provide procedural requirements for program operations. Typically, they

are published through an official process that allows for public comment. Regulations have the same effect as law and must be complied with once they are published in final form. The regulations are published in 44 CFR (Code of Federal Regulations) Part 206. They govern the PA Program and outline program procedures, eligibility, and funding.

The provisions of 44 CFR Part 206, Subparts C and G – L are included in Appendix C for your reference.

Additional regulations regarding grant administration and allowable costs can be found in 44 CFR Part 13 – Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments.

Policies

Policies are issued by FEMA Headquarters. They clarify or provide direction for specific situations within the parameters established by the Stafford Act and various regulations that pertain to the PA Program. Policies may be subject-specific (for example, applying eligibility criteria to landslides) or specific to a single disaster. FEMA issues policies so that the regulations are interpreted consistently across the nation and from disaster to disaster.

Policies can be obtained through the following sources:

- the Public Assistance Officer (PAO), who provides the most recent policies pertinent to a specific disaster;
- the *Public Assistance Policy Digest*, (FEMA 321), October 1998; and
- FEMA's website (go to www.fema.gov; click on [Disaster Assistance](#), click on [Public Assistance](#), and click on [Policy](#)).

The remainder of this chapter discusses the basic eligibility criteria for public assistance funding, as outlined in the governing documents. These criteria are presented in terms of the following four components:

- applicant;
- facility;
- work; and
- cost.

Each of these components is defined, and detailed explanations of specific conditions and circumstances that may affect the eligibility of each are provided. The division of work into seven categories (A through G) that describe specific types of work is also presented.

Applicant

Following a disaster declaration by the President and a designation for public assistance by FEMA, assistance for response and recovery operations is made available to eligible applicants. Four types of entities are eligible applicants. These entities include:

- State government agencies, such as departments of transportation, environment, or parks;
- Local governments, such as a county, city, town, special district or regional authority, village, or borough;
- Indian Tribes or authorized tribal organizations and Alaskan Native villages; or
- Private Nonprofit (PNP) organizations or institutions that own or operate facilities that provide certain services otherwise performed by a government agency.

Facilities owned by public entities also may be eligible. Public entities are those organizations that are formed for a public purpose but are not political subdivisions of a State or a local government. To qualify for assistance, these types of applicants must receive the majority of their funding from the State or a political subdivision of the State. Application for public assistance, as with assistance for facilities that serve rural or unincorporated communities ([see page 17](#)), must be made by a State or a political subdivision of the State that will be responsible for the completion of work at the facility.

PNP Organizations

PNP organizations must have an effective ruling letter from the U.S. Internal Revenue Service granting tax exemption or certification from the State that the organization is a non-revenue producing, nonprofit entity organized or doing business under State law.

PNP services must be available to the general public. This means that the primary purpose of a PNP must be to provide a public service that is not restricted by a specific definition or by prohibitive fees. If access to the use of PNP services is restricted, the PNP is not eligible. Examples of ineligible PNPs are those restricted to:

- a certain number of members;
- members that have a financial interest in the facility, such as a condominium association; or
- a geographical area smaller than normal for the type of service being provided.

Membership requirements or restrictions on services that do not disqualify PNPs for public assistance include:

- fees that cover only administrative processing costs;
- fees that can be waived upon demonstration of need; or

- restriction to a group of users where at least one parameter is open ended, such as all youth under age 16.

In order to be eligible for public assistance, PNP facilities must be used primarily for an eligible purpose. Qualifying PNPs include those that provide education, medical, custodial care, emergency, utility, and other essential governmental services. These services are described below.

PNP Education. Educational institutions are defined in terms of primary, secondary, and higher education schools. For primary and secondary schools, an educational institution is a day or residential school that provides primary and secondary education as determined under State law. This generally means that the school satisfies State requirements for compulsory attendance. For higher education facilities, an educational institution is defined as an institution in any State that:

- admits as students persons having a high school diploma or equivalent;
- is legally authorized to provide education beyond the secondary level;
- awards a bachelor's degree or a two-year degree that is acceptable as full credit towards a bachelor's degree; and
- is accredited by a nationally recognized agency or association. (Special criteria apply to institutions that are not accredited. The PAO should be consulted.)

A higher educational institution is also defined as any school that provides not less than a one-year training program to prepare students for gainful employment in a recognized occupation and that meets the provisions of the criteria set forth in the first, second, and fourth bullets above.

Eligible facilities include classrooms plus related supplies, equipment, machinery, and utilities of an educational institution

necessary or appropriate for instructional, administrative, and support services. It does not include buildings, structures, or related items used primarily for religious purposes or instruction.

PNP Medical. A medical facility is any hospital, outpatient facility, rehabilitation facility, or facility for long-term care, as defined below. A medical facility is also any facility similar to those listed below that offers diagnosis or treatment of mental or physical injury or disease. Eligible components include the administrative and support facilities essential to the operation of the medical facility, even if not contiguous.

Hospitals include general, tuberculosis, and other types of hospitals and related facilities, such as laboratories, outpatient departments, nursing home facilities, extended care facilities, facilities related to programs for home health services, self-care units, and central service facilities operated in connection with hospitals. This category also includes education or training facilities for health profession personnel operated as an integral part of a hospital. A hospital that primarily furnishes home-based care is not considered a hospital under this definition.

Outpatient facilities are defined as facilities located in or apart from a hospital for the diagnosis or treatment of ambulatory patients. Such a facility may be one operated in connection with a hospital, or one in which patient care is under the professional supervision of a doctor licensed in the State.

Rehabilitation facilities are defined as facilities that are operated for the purpose of assisting the rehabilitation of disabled persons through a program of medical evaluation and services; and psychological, social, or vocational evaluation and services that are under competent professional supervision. The major portion of these services should be furnished in the facility.

Facilities for long-term care are defined as facilities providing inpatient care for convalescent or chronic disease patients who require skilled nursing care and related medical services. Such facilities may be in a hospital, operated in connection with a hospital, or be in a location where services performed are under the supervision of a doctor licensed in the State.

Medical office buildings that are owned by PNP organizations but contain offices leased to for-profit practices of doctors and other services are subject to special eligibility criteria. If the for-profit practices lease more than 50 percent of the building, the building is not eligible for public assistance. However, if at least 50 percent of the building is used for medical service activities associated with the PNP organization, the building is eligible for assistance. Such assistance is pro-rated based on the percentage of the building occupied by the PNP organization. For example:

A medical office building is damaged during a declared event, and the restoration costs are estimated to be \$100,000. If 60 percent of the floor space in the building is used by a PNP organization and the other 40 percent is used by a for-profit practice, the maximum eligible amount of public assistance would be \$60,000.

PNP Custodial Care. Custodial care facilities are those buildings, structures, or systems, including those essential administration and support buildings, that are used to provide institutional care for persons who do not require day-to-day care by doctors or by other professionals, but do require close supervision and some physical constraints on their daily activities.

PNP Emergency. Emergency facilities include fire departments, search and rescue teams, and ambulances. Buildings, vehicles, and other equipment used directly in performing emergency services are eligible.

PNP Utility. A utility includes facilities necessary for the generation, transmission, distribution, and maintenance of electric

power, telephone, sewer and water, and gas services. PNP irrigation organizations are not treated as utilities. FEMA Program Officials can provide further information on the basis for eligibility of certain of their functions.

PNP Other. Essential governmental services not falling in one of the categories described above include:

- museums;
- zoos;
- community centers;
- libraries;
- homeless shelters;
- senior citizen centers;
- shelter workshops; and
- health and safety services.

Facilities that provide health and safety services of a governmental nature include:

- low-income housing;
- alcohol and drug rehabilitation centers;
- residences and other facilities offering programs for battered spouses;
- facility offering food programs for the needy; and
- daycare centers for children, senior citizens and those individuals with special needs (such as those with Alzheimer's disease, autism, and muscular dystrophy).

Community centers that are established and primarily used as gathering places for a variety of social, educational enhancement, and community service activities also may be eligible. However, facilities established or primarily used for religious, political, athletic,

recreational, vocational or academic training, artistic, conference, or similar activities are not eligible. A community center includes the building and associated structures and grounds. Each component must be evaluated in its entirety to determine eligibility. For example:

If a community center complex consists of three buildings, two that serve as eligible community centers and one that serves as an administrative building, only two buildings are eligible for public assistance, as the administrative building does not provide an eligible activity.

“Primarily used”, as stated above, means that the facility is used over 50 percent of the time for eligible activities, or 50 percent of its space is used for eligible activities.

Examples of ineligible services or facilities are:

- recreational facilities;
- job counseling or job training;
- facilities for advocacy groups not directly providing health services;
- conference facilities;
- centers for the performing arts;
- political education;
- advocacy or lobbying;
- religious service or education;
- facilities for social events; and
- roads owned and operated by a property owners association.

Refer to [page 32](#) for a discussion of additional limitations for PNPs.

Facility

A facility is defined as:

- any publicly or PNP-owned building, works, system, or equipment; or
- certain improved and maintained natural features.

The improvement of a natural feature should be based on a documented design that changes and improves the natural characteristics of the feature. Examples of such improvements include soil stabilization measures (such as terracing), channel realignment, and channel bank armoring for erosion control. The non-structural portions of public golf courses may be considered facilities.

Examples of improvements that do not qualify as eligible facilities include agricultural lands and planted trees and shrubs.

Upon completion of an improvement, a subsequent measurable difference in the performance over the unimproved natural feature should be shown. The maintenance of this improvement must be done on a regular schedule and to standards to ensure that the improvement performs as designed. It is the improvement itself that must be maintained for the natural feature to be considered a facility.

Legal Responsibility

An eligible applicant must be legally responsible for the damaged facility at the time of the disaster. Ownership of a facility is generally sufficient to establish responsibility. If an applicant owns but leases out an eligible facility, repairs to the facility are eligible, unless the lease states that the lessee is responsible for extraordinary repairs. However, if an applicant leases a facility as a tenant, repairs to that facility are not eligible, unless the lease

specifically states that the lessee is responsible for the repairs. Facilities owned by Federal agencies typically are not eligible for public assistance. Some Federal agencies, however, own facilities but turn responsibility for operation and maintenance of these facilities over to local agencies. These may be eligible facilities. Examples include roads constructed by the U.S. Forest Service and the Bureau of Indian Affairs, and reservoirs and water delivery systems constructed by the U.S. Bureau of Reclamation.

Often, citizens in rural or unincorporated communities will band together for the purpose of maintaining common facilities. Because such facilities serve the community, they may be eligible for public assistance, even though they are not owned by an eligible applicant, if a State or political subdivision of the State submits the request for assistance. The original purpose of the facility must have been for use by the general public and not for private or commercial uses. The facilities must be owned by a legal entity in order to be eligible.

Other Federal Agencies

For certain types of facilities, disaster assistance is the responsibility of a Federal agency other than FEMA. Public assistance is not available for the permanent repair of such facilities and is limited in nature to emergency work. When a request is made for public assistance for a facility whose repair FEMA considers to be within the authority of another Federal agency, the specific Federal agency with responsibility will be asked to review the request and advise FEMA whether the work is eligible under that agency's authority. If the work falls outside the statutory authority of that agency, FEMA may consider providing assistance for the work under the Stafford Act. However, the other Federal agency may determine the work is not eligible for assistance because:

- the agency does not have funds for the particular program at the time; or

- the work is the responsibility of the applicant either by statute or by agreement with the agency.

If either of the above reasons apply, public assistance will not be available because the work is within the authority of the other agency and the eligibility was determined under that agency's regulations.

FEMA assistance generally is not available if another agency's program can reimburse an applicant for work done by that applicant. However, since some agencies must perform the work or let a contract for the work themselves (and are not authorized to reimburse an applicant), an applicant may find that the work it did cannot be reimbursed. Denial of payment by itself is not a basis for requesting public assistance from FEMA. However, if there is an emergency need, FEMA may consider assistance for emergency work that has been done or paid for by the applicant. If the work is not emergency work, it is not eligible for public assistance.

Federal agencies that often have authority to provide disaster assistance are discussed below.

U.S. Army Corps of Engineers (USACE). The USACE has a continuing authority to conduct emergency repair and permanent restoration of damaged flood control works. Flood control works are those facilities constructed for the purpose of eliminating or reducing the threat of flooding. Examples include:

- levees;
- floodwalls;
- flood control channels; and
- dams designed for flood control.

Because permanent restoration of these facilities falls under the authority of the USACE, public assistance funding is not available.

This restriction applies even if USACE funding is denied. However, public assistance funding may be provided for certain emergency measures to include debris removal and flood fighting.

Emergency repair also may be eligible if, at the time of the disaster, the facility is not enrolled in the USACE program and the facility has not previously received FEMA assistance for emergency repairs. A condition of funding will be that the applicant enrolls the subject facility in the program; otherwise, funding for the repair and restoration of the facility will not be provided in subsequent disasters. If the facility is already enrolled in the USACE program at the time of the disaster, or has received emergency repair assistance from FEMA previously, public assistance is not available for emergency repair.

The USACE also has the authority to construct and repair facilities that protect the shorelines of the United States. The USACE repair authority extends only to federally constructed shoreline works. It does not extend to locally owned facilities. Therefore, federally constructed facilities are not eligible for public assistance funding, but locally owned facilities may be considered.

Department of Agriculture – Natural Resources Conservation Service (NRCS). Under the Emergency Watershed Protection Program, the NRCS has authority for the repair of flood control works that is similar to that of the USACE. Because of these overlapping authorities, the two agencies have a memorandum of understanding that provides guidance in dividing responsibilities when a disaster occurs. The NRCS authority applies to drainage basins of 400 square miles or less.

Federal Highway Administration (FHWA). The FHWA administers the Emergency Relief (ER) Program to assist State and local governments with the repair of roads and bridges damaged during disasters. Funds from this program are used for facilities on routes identified by the FHWA. They include most public roads functionally classified as arterial and collector routes.

The ER Program is the responsibility of the Secretary of Transportation and is activated independently of major disaster and emergency declarations made by the President. Frequently, the ER Program is not activated when the President declares a major disaster or emergency. ER funds are used for both emergency and permanent work and are granted on the basis of inspections performed by FHWA and State highway department personnel.

Because restoration of certain facilities falls under the authority of FHWA, the Stafford Act specifically excludes permanent restoration of them under the PA Program. As a result, public assistance for the permanent repair of these facilities is not available, even if the ER Program is not activated. Therefore, there will be times when no assistance is available for the permanent repair of some facilities. FEMA may assist with limited emergency repairs and debris clearance for emergency access on a case-by-case basis, when ER funds are not available for that work.

There are certain roads on Indian reservations that have been designated by the Bureau of Indian Affairs as falling under the authority of the FHWA. These roads are subject to the restrictions discussed above. It may be necessary to consult the Bureau of Indian Affairs to determine repair responsibility of damaged roads on reservations.

Active Use

A facility must be in active use at the time of the disaster. Inactive facilities typically are not eligible. Exceptions to this requirement occur when:

- the facility was only temporarily inoperative for repairs or remodeling;
- the facility was temporarily unoccupied between tenants;

- future use by the applicant was firmly established in an approved budget; or
- the applicant can clearly demonstrate to FEMA that there was an intent to begin use within a reasonable amount of time.

This requirement is also applied to a facility that is partially occupied and partially vacant at the time of a disaster. Vacant portions would not be eligible unless the exemptions noted above apply. In all cases, the facility in question must have been eligible for assistance during the time it was in use. Assistance will be pro-rated according to the percentage of the facility that was in active use for an eligible purpose.

Alternate Use

If a facility is being used for purposes other than those for which it was originally designed, the eligible restoration for that facility is limited to the extent necessary to restore the immediate pre-disaster use of the facility, but not to a greater capacity than originally designed. For example:

If an office building is being used as a storage facility at the time of a disaster, only those repairs that may be needed to restore a storage facility are eligible. Any special lighting or wall and floor finishes that are typical of an office building would not be necessary for a storage facility and, therefore, would not be eligible.

In the case of PNP facilities, the primary purpose for the establishment of the facility is important for the eligibility determination. For example:

A facility established as a church (an ineligible purpose) might be used on occasion as a homeless shelter, while its primary purpose remained as a church. It would be ineligible based on the primary or majority use.

Facilities Under Construction or Scheduled for Replacement

Typically, a facility under construction is the responsibility of the contractor until the owner has accepted the work as complete. Because a contractor is not an eligible applicant, the portion of the facility under the contractor's responsibility is not eligible for public assistance. In the event of damage to a facility under construction, FEMA must determine if the applicant is responsible for repairs before granting assistance. Repairs are eligible if the contract under which the work is being performed places responsibility for damage on the applicant during the construction period. Repairs are also eligible if, prior to the disaster, the applicant had accepted the work and had, therefore, assumed responsibility. If the applicant had accepted responsibility for a portion of the site, repairs to only that portion of the site would be eligible.

When a facility or portion of that facility is under contract for replacement using non-Federal funds, damage to the portion of the facility being replaced is not eligible. This restriction in funding applies even if the work has not started at the time of the disaster. However, if an applicant had included a project in a budget but had not yet let a contract at the time of the disaster, that project is eligible.

If a facility has been scheduled for replacement using Federal funds and work is scheduled to begin within 12 months of the time the disaster strikes, the facility is not eligible for funding. An example of a continuing program of this nature is the FHWA Bridge Replacement and Rehabilitation Program. The program provides for State or locally owned bridges to be replaced with FHWA assistance. The State sets priorities for this program and determines which bridges will be replaced. If a disaster damages or destroys a bridge scheduled for replacement, the State should be able to reschedule so that the damaged bridge can be replaced immediately rather than later in the year.

Work

There are three general types of work that may be eligible, with different criteria for each:

- debris removal;
- emergency protective measures; and
- permanent restoration.

Debris removal and emergency protective measures are considered emergency work, and permanent restoration is considered permanent work. Emergency and permanent work are discussed in the latter part of this chapter. Three general criteria apply to all types of work and to all applicants. These criteria are discussed below.

Direct Result. Work must be required as a direct result of the declared disaster. The declaration by the President will designate the event, such as severe storms, tornadoes, or floods, for which the declaration is being made. Damage that results from a cause other than the designated event, or from pre-disaster damage, is not eligible.

FEMA establishes an incident period after consultation with the GAR. The incident period is the time span during which the disaster-causing incident occurs. This period varies in length, depending on the type of incident. For example:

The incident period for a flood event could be several weeks, because the water has to crest and recede; while the incident period for a tornado would be one day, because the damage occurs in a matter of minutes.

Damage that occurs during the incident period, or damage that is the direct result of events that occurred during the incident period, is eligible. Protective measures and other preparation activities performed within a reasonable and justified time in advance of the event also may be eligible. For example, if a flood on a major river is forecast a few weeks in advance, sandbagging and construction of temporary levees to protect the community may be eligible.

Protective measures addressing eligible damage may be performed after the incident period. Damage that occurs after the close of an incident period that can be tied directly to the declared event also may be eligible. Such damage may occur even a few months after the event and still be considered. For example:

An eligible public building is damaged during a declared earthquake. After the incident period closes, a wing of the building collapses due to structural failures that were caused by the earthquake. Replacement of the collapsed wing may be eligible for public assistance.

Designated Disaster Area. When a declaration of a major disaster is made for a State, FEMA will designate those counties of the State that are eligible for assistance. Except for unusual situations, counties or independent cities are designated. The damaged facility must be located, or the work must be performed, within the designated area to be eligible for public assistance.

If the damaged facility is located within the designated area but the owner of the facility is from an undesignated area, the damaged facility will still be eligible and that owner may apply for assistance. However, if an owner from within the designated area has a damaged facility located outside the designated area, that facility will not be eligible, even if damaged by the same event.

The types of assistance available in the designated disaster area may vary between counties. Some counties may be eligible for reimbursement for both emergency and permanent work while others may be eligible to receive funding for emergency work only.

Legal Responsibility. As with eligible facilities ([see page 16](#)), work must be the legal responsibility of the applicant at the time of the disaster to be eligible. Ownership of a facility is sufficient to establish the responsibility for work to repair the facility. However, if an applicant leases a facility as a tenant, repairs to that facility are not eligible unless the lease states that the lessee is responsible for the repairs. A copy of the lease agreement should be provided to FEMA to determine responsibility. The lease usually contains general repair and maintenance language; however, responsibility for damage resulting from a disaster may not be established. In the absence of any mention in the lease, the owner of the facility will be assumed to be responsible for the repair.

In some cases, State or local governments use mutual aid agreements as an emergency preparedness device. A mutual aid agreement is an agreement between jurisdictions or agencies to provide services across boundaries in an emergency. The conditions of the agreement can be to provide reciprocal services or direct payment for services. FEMA will reimburse mutual aid costs for eligible work, when requested by the applicant under the following conditions:

- the agreement is written and in effect prior to the disaster;
- the entity that received the aid was actually charged for that aid;
- the agreement does not contain a contingency clause that specifies payment only upon receipt of FEMA funds; and
- the entity can provide documentation of payment for services upon request.

Negligence

Damage caused by negligence on the part of the applicant is not eligible. This issue often arises when an applicant fails to take prudent measures to protect a facility from further damage in the wake of a disaster. For example:

The roof of a library is damaged during a hurricane, but the applicant does not install tarps on the roof to protect the building's interior for several weeks. Repeated rain showers during that time destroy the exposed books and furnishings. The damage caused by the rains would not be eligible unless the applicant could document and justify why emergency protective measures were not implemented in a timely manner.

Damage caused by an applicant's actions, if unavoidable, may not necessarily be negligence, especially in cases where the damage occurs during emergency response efforts. For example:

While using heavy equipment to build a temporary berm for emergency flood protection, an applicant damages the roads that provide access to the site. Even though the applicant caused the damage, the repairs to the roads may be eligible.

Also note that damage caused by inadequate design is not considered negligence. For example:

If an undersized culvert contributes to damage to a road, the repair of the road may be eligible.

Maintenance

Normal maintenance, such as pothole repair, routine pulling of ditches, and minor gravel replacement; and deferred maintenance, such as replacing rotted timber, and repairing deteriorated asphalt

and leaking roofs, are not eligible because they are not a direct result of a disaster. For example:

If a culvert's annual maintenance report indicates that the culvert was full of debris (tree limbs and sediment) before the disaster, the work to remove the obstructions from the culvert would not be eligible.

In instances where damage can be attributed to the disaster instead of lack of maintenance, repairs are eligible. It is the applicant's responsibility to show that the damage is disaster related.

Codes and Standards

When a facility must be repaired or replaced, FEMA may pay for upgrades that are necessary to meet specific requirements of current codes and standards. This situation typically occurs when older facilities, particularly buildings, must be repaired in accordance with codes and standards that were adopted after the original construction. These codes and standards may include Federal requirements, such as those mandated by Executive Order 12699 (seismic requirements for new buildings). However, this does not mean that public assistance grant funds will be provided to bring a facility into full compliance with current codes and standards. The determination of which codes and standards are applicable to the work is very important in determining eligible work. For an upgrade to be eligible, the code or standard requiring the upgrade must meet the five criteria listed below.

- 1. The code or standard must apply to the repair work being performed.* If a facility must be replaced, an upgrade would apply throughout the facility. However, if a facility needs repair work only, upgrades would apply to the damaged elements only. For example:

FEMA would pay to install a sprinkler system throughout a multi-story building if that building were being replaced, but

would not pay for such a system if the only eligible repair work involved replacing flood-damaged walls and flooring on the ground level.

2. *The code or standard must be appropriate to the pre-disaster use of the facility.* For example, if a former classroom facility that was being used by a school district as a warehouse before the disaster is destroyed, standards applicable to the design and construction of classrooms do not apply; only those for warehouses would be eligible.
3. *The code or standard must be reasonable, formally adopted in writing, and implemented prior to the disaster declaration date.* The appropriate legislative authority within the applicable jurisdiction must have taken all requisite actions to implement the code or standard.
4. *The code or standard must apply uniformly to all facilities of the type being repaired within the applicant's jurisdiction.* The code or standard cannot allow selective application; it cannot be subject to discretionary enforcement by public officials; it must be applied regardless of the source of funding for the upgrade work; and it cannot be applied selectively based on the availability of funds.
5. *The code or standard must have been enforced during the time that it was in effect.* FEMA may require documentation showing prior application of the standard.

Repair vs. Replacement (50 Percent Rule)

FEMA will restore an eligible facility to its pre-disaster design. Restoration is divided into two categories: repair or replacement. If a facility is damaged to the point where the applicant thinks the facility should be replaced rather than repaired, the following

calculation, known as the “50 Percent Rule”, should be used to determine whether replacement is eligible:

IF $\frac{\text{Repair Cost}}{\text{Replacement Cost}} < 50\%$ THEN only the repair cost is eligible

IF $\frac{\text{Repair Cost}}{\text{Replacement Cost}} \geq 50\%$ THEN the replacement cost is eligible

Repair Cost includes only those repairs associated with the damaged components. This cost does not include upgrades triggered by codes and standards, demolition, site work, or applicable project management costs, even though such costs may be eligible for public assistance.

Replacement Cost includes the costs for all work necessary to provide a new facility of the same size or design capacity and function as the damaged facility in accordance with current codes and standards. The replacement cost does not include demolition, site work, and applicable project management costs, even though these costs may be eligible for public assistance.

Note that the design capacity of the facility, either as originally designed or as modified by later design, will govern the extent of eligible work when a facility is being replaced. If a facility was being used in excess of its design capacity, that factor would not increase the eligible capacity of a replacement facility.

The table on [page 30](#) illustrates eligible cost determinations. In most cases, the criteria outlined in this table are adequate for repair and replacement projects. However, particular attention should be paid to the repair of damaged historic buildings. Such repair could trigger a requirement to upgrade a structure to new construction standards, while at the same time maintaining historic features. The total restoration cost, which would include the triggered

Conditions	Eligible Costs
1. The repair cost* does not exceed 50% of the replacement cost** and no upgrades are triggered.	Repair of eligible damage only.
2. The repair cost* does not exceed 50% of the replacement cost** and whole building upgrade is triggered and the total of the two items is greater than 50% but less than 100% of replacement cost.**	Repair of eligible damage plus upgrade cost.
3. The repair cost* does not exceed 50% of the replacement cost** and whole building upgrade is triggered and the total of the two items is estimated to be greater than 100% of replacement cost.**	Repair of eligible damage plus upgrade cost, but the total eligible costs capped at the replacement cost.
4. The repair cost* exceeds 50% of replacement cost.**	The building's full replacement cost (but no more than its replacement cost) is eligible.

Notes: **Repair cost* in these examples includes repair of damaged components only, as described on [page 29](#).

***Replacement cost* is replacement of the same size or designed capacity and function of the building to all applicable codes, as described on [page 29](#).

upgrades in this situation, may exceed replacement cost, as in condition 3 in the table.

The regulations contain an exception to the funding limitation described in the table that applies only in a very narrow range of situations. Such a situation would exist when there is a standard that requires a facility to be restored in a certain manner and disallows other options, such as leaving the facility unrestored. If an applicable standard requires such action, the eligible cost to complete the restoration may exceed the replacement cost.

Temporary Relocation

When buildings that house essential services, such as school classrooms, police and fire department facilities, government offices, and certain PNP functions, such as critical health facilities, are damaged extensively enough that they cannot be used until repairs are made, temporary relocation of the essential services may be necessary. The costs associated with temporary relocation are eligible but are subject to cost comparisons of alternate methods of providing facilities. Such costs include the rental or purchase of temporary space and equipment. Maintenance and operating costs of the temporary facility are not eligible.

The length of time that rental costs are eligible will be based on the time estimated to complete repair work that will bring the damaged facility to pre-disaster design. The decision whether to rent or purchase space and equipment must be based on cost effectiveness.

Permanent Relocation

An applicable Federal, State, or local standard, such as a floodplain management regulation, may require that a damaged facility be relocated away from a hazardous area. Such relocations also may be required by FEMA if the facility is subject to repetitive heavy damage because of its location. In either case, FEMA will

provide assistance for the relocation project only if it is cost effective and not barred by any other FEMA regulations or policies. Eligible costs included in a relocation project are:

- demolition and removal of the old facility;
- land acquisition;
- construction of the new facility, including any elements required for environmental and historic compliance; and
- construction of ancillary facilities, such as roads and utilities.

To determine cost effectiveness, benefits are measured in terms of the damage prevented by moving away from the hazardous location. Generally, the project will only be cost effective if the damage is severe enough that the facility qualifies for replacement.

When a relocation to outside a hazard area is approved, no future public assistance funding for the repair or replacement of any facility subsequently built at the old site will be approved. An exception is given for facilities or structures that facilitate an open space use. Examples include minimal facilities for a park, such as benches, tables, restrooms, and minor gravel roads. When such a restriction is placed on a site, the applicant will be notified in writing of the limitation by the DRM.

If relocation is not desired, feasible or cost effective, and restoration in the original location is not a practicable alternative because of floodplain, environmental, historical, or other Special Considerations, the applicant may request that the funding be applied to an alternate project. Alternate projects are discussed in more detail on [page 84](#) of this guide.

Limitations for PNPs

Assistance for all PNPs is limited to repair or replacement of damaged eligible facilities and related costs, such as protective

measures to prevent damage to the facility or contents. A protective measure might be to move the facility contents to temporary storage. The provision of temporary facilities and moving costs must be evaluated according to the criteria for temporary relocation outlined on [page 31](#) of this guide. The moving costs, as well as necessary alterations at the new location, might be eligible if the continued operation of the facility was necessary to eliminate immediate threats to life or property. If the PNP were located in a rented facility, repairs to the facility would not be eligible unless the written lease placed such responsibility on the PNP. If a PNP must vacate a rental facility while repairs are made, and the PNP is not legally responsible for repairing the facility, the expenses of renting a temporary facility would not be eligible, even if those expenses exceed the pre-disaster rate.

PNP operating costs for providing services are not eligible, even if increased by the disaster event. The ineligible items include labor, material, and equipment costs for providing assistance services to disaster victims, even if the services are not the same as the organization's basic mission. If the organization is providing services under contract to a local government or State agency, the work may be eligible if it is claimed by that government or agency.

Cost

Generally, costs that can be directly tied to the performance of eligible work are eligible. Such costs must be:

- reasonable and necessary to accomplish the work;
- compliant with Federal, State, and local requirements for procurement; and
- reduced by all applicable credits, such as insurance proceeds and salvage values.

A cost is reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost. In other words, a reasonable cost is a cost that is both fair and equitable for the type of work being performed. For example:

If the going rental rate for a backhoe is \$25/hour, it would not be reasonable to charge \$75/hour for a backhoe.

Determining reasonableness is particularly important when Federal funds are involved. Considerations should be given to whether the cost is of a type generally recognized as ordinary and necessary for the subject facility and type of work and whether the individuals concerned acted with prudence in conducting work. In addition, normal procedures must not be altered because of the potential for reimbursement from Federal funds. Reasonable costs can be established through:

- the use of historical documentation for similar work;
- average costs for similar work in the area;
- published unit costs from national cost estimating databases; and
- FEMA cost codes.

In performing work, applicants must adhere to all Federal, State, and local procurement requirements. Furthermore, an applicant may not receive funding from two sources to repair disaster damage. Such a duplication of benefits is prohibited by the Stafford Act. If an applicant can obtain assistance for a project from a source other than FEMA, including insurance proceeds, then FEMA cannot provide funds for that project. A State disaster assistance program is not considered a duplication of Federal funding. Donated grants from banks, private organizations, trust

funds, and contingency funds must be evaluated individually to determine whether they constitute a duplication of benefits.

The eligible cost criteria referenced above apply to all direct costs, including labor, materials, equipment, and contracts awarded for the performance of eligible work.

Labor

Force account labor is defined as labor performed by the applicant's employees, rather than by a contractor. Force account labor costs associated with the conduct of eligible work may be claimed at an hourly rate. Labor rates include actual wages paid plus fringe benefits paid or credited to personnel. Different eligibility criteria apply to labor rates for different kinds of employees and work, as described below.

Reassigned Employees. The labor cost for employees assigned to perform tasks that are not part of their normal jobs is eligible as long as the reassigned employees are performing eligible permanent work. A reassigned employee may have a higher salary than the personnel normally performing the work. In this case, the eligible labor rate should be the average rate for the employees who normally do that type of work.

Temporary Employees. Temporary employees are extra personnel hired as a direct result of the disaster to perform eligible work. An example of a temporary employee would be a laborer hired to perform repairs to roads damaged during the disaster. All reasonable wages paid to temporary employees who perform eligible emergency and permanent work are eligible.

Force Account Mechanics. Time spent maintaining and repairing applicant-owned equipment is not eligible because this cost is included in equipment rates described on [page 37](#). Repair of disaster damage to equipment may be eligible, as described later in this chapter under Category E.

Foremen and Supervisors. Labor for both foremen and supervisors may be eligible for work forces engaged in disaster-related field activities. However, the salaries of commissioners, mayors, department directors, police and fire chiefs, and other administrators usually are not eligible.

National Guard Labor and Prison Labor. The Stafford Act contains specific reference to costs of National Guard labor and prison labor. Costs of using National Guard personnel to perform eligible work are eligible to the extent that those costs are being paid by the State. Prison labor costs are eligible at the wage rate actually paid. For the labor of guards, transportation, and food, only the incremental extra costs for those items may be claimed.

Davis-Bacon Act. The Davis-Bacon Act requires Federal construction contractors to pay their workers the “prevailing wage” based on the local union wage scale defined by the Department of Labor. The provisions of the Davis-Bacon Act do **not** apply to State or local contracts for work completed using public assistance funds under the Stafford Act. However, the provisions may apply to contracts let by other Federal agencies, such as the USACE. If a State or local government incorporates Davis-Bacon wage rates as part of its normal practice for all contracts, regardless of funding source, then those rates would be eligible.

Regular Time and Overtime. For debris removal and emergency protective measures, only overtime labor is eligible for permanent employees, regardless of normal duties or assignments. Regular time, which is defined by the entity’s established compensation policy, is not eligible for permanent employees. For permanent work, both regular time and overtime are eligible for all employees.

Compensatory Time. If an applicant has a policy for providing compensatory time in place of overtime, FEMA reimbursement will be based on that policy, and reimbursement at premium rates for overtime hours is not eligible. Costs for compensatory time are

eligible at regular rates, but must be part of the official time-keeping system.

Fringe Benefits. Fringe benefits that are actually paid as part of an established policy are eligible. Because certain items in a benefit package are not dependent on hours worked, such as health insurance, the fringe benefit rate will be different for regular and overtime hours. The overtime fringe benefit rate is usually significantly lower.

Materials

The cost of supplies that were purchased or taken from an applicant's stock and used during the performance of eligible work are eligible. If available, actual costs for materials should be taken from invoices. If the materials were taken from stock and invoices are not available, costs may be developed from the applicant's historical data or by contacting area vendors.

Equipment

The incurred cost of force account (that is, applicant-owned) equipment used to perform eligible work is eligible. Costs for use of automobiles and pick-up trucks may be reimbursed on the basis of mileage. For all other types of equipment, costs are reimbursed using an hourly rate. Equipment rates typically include operation, insurance, depreciation, and maintenance; however, they do not include the labor of the operator. Stand-by time for equipment is not eligible. However, if an applicant uses equipment intermittently for the majority of day, use for the entire day may be claimed if adequate documentation is submitted. Equipment that is used for less than half a day is reimbursable only for the hours used.

FEMA recognizes three types of equipment rates. Each is described as follows.

FEMA Rates. FEMA has published a schedule of equipment rates that is applicable on a national basis. If a piece of equipment used by an applicant is not on the FEMA schedule, documentation to justify the requested rate must be submitted to FEMA. If the rate is less than \$75 per hour, the DRM may approve the rate. If it is \$75 per hour or greater, it must be submitted to FEMA's Executive Associate Director (EAD) of Response and Recovery for approval. If an entity has established rates for use in its normal day-to-day operations, the criteria listed below under State and local rates apply. If an entity does not have established rates, FEMA rates will be used.

State Rates. An applicant may claim rates that have been approved under State guidelines up to \$75 per hour. Rates over \$75 per hour may be approved by FEMA on a case-by-case basis. Rates used by a State agency for its own equipment are, by definition, rates established under State guidelines. Care must be taken to examine the rate schedule before applying it to State or locally owned equipment. Some State highway departments have a schedule of rates for "force account" work, the meaning of which is generally different from its meaning in the PA Program. State highway usage of the term may mean a rate for contractor's equipment doing extra work on a project. PA Program usage means a rate for applicant-owned equipment. Therefore, FEMA may request verification that any such rate schedule is actually for applicant-owned equipment.

Local Rates. Rates developed by a local government can be used. Where local rates have been developed, reimbursement is based on the local rates or FEMA's rates, whichever is lower. If the local rate is lower and the applicant certifies that the rates do not reflect all actual costs, the higher FEMA rates may be used. The applicant may be requested to provide documentation of the basis for its rates.

Contracts

Contracts must be of reasonable cost, generally must be competitively bid, and must comply with Federal, State, and local procurement standards. FEMA finds four methods of procurement acceptable. Each is described below.

Small Purchase Procedures. Small purchase procurement is an informal method for securing services or supplies that do not cost more than \$100,000 by obtaining several price quotes from different sources.

Sealed Bids. Sealed bid procurement is a formal method where bids are publicly advertised and solicited, and the contract is awarded to the bidder whose proposal is the lowest in price (this method is the preferred method for procuring construction contracts).

Competitive Proposals. Competitive procurement is a method similar to sealed bid procurement in which contracts are awarded on the basis of contractor qualifications instead of on price (this method is used for procuring architectural or engineering professional services).

Noncompetitive Proposals. Noncompetitive procurement is a method whereby a proposal is received from only one source. Noncompetitive proposals should be used only when the award of a contract is not feasible under small purchase procedures, sealed bids, or competitive proposals, and one of the following circumstances applies:

- the item is available only from a single source;
- there is an emergency requirement that will not permit a delay;
- FEMA authorizes noncompetitive proposals; or
- solicitation from a number of sources has been attempted, and competition is determined to be inadequate.

FEMA provides reimbursement for three types of contracts. They are:

- lump sum contracts for work within a prescribed boundary with a clearly defined scope and a total price;
- unit price contracts for work done on an item-by-item basis with cost determined per unit; and
- cost plus fixed fee contracts, which are either lump sum or unit price contracts with a fixed contractor fee added into the price.

Time and materials contracts should be avoided, but may be allowed for work that is necessary immediately after the disaster has occurred when a clear scope of work cannot be developed. Applicants must carefully monitor and document contractor expenses, and a cost ceiling or “not to exceed” provision must be included in the contract. If a time and materials contract has been used, the applicant should contact the State to ensure proper guidelines are followed. Cost plus a percentage of cost contracts and contracts contingent on FEMA reimbursement are not eligible.

Donated Resources

Volunteer labor, donated equipment, and donated materials are eligible to offset the non-Federal portion of the cost for emergency work. The amount of credit that can be applied to a project is capped at the non-Federal share so that the Federal share will not exceed the applicant’s actual out-of-pocket costs. Any excess credit can be applied to other emergency work projects of the applicant.

Donated resources must apply to actual emergency work, such as debris removal or the filling and placing of sandbags. The donated services must be documented and must include a record of hours worked, the work site, and a description of work.

Volunteer labor will be valued at the same hourly labor rate as someone in the applicant's organization performing similar work. If the applicant does not have employees performing similar work, the rate should be consistent with that for a person ordinarily performing the work in the same labor market.

The value for donated equipment should be determined by using the applicable FEMA equipment rate and multiplying it by the number of hours the piece of equipment was used performing eligible work.

Donated materials are valued at the current commercial rate. If the materials were donated by a Federal agency, such as sandbags donated by the USACE, the value of the materials cannot be applied as volunteer credit.

Administrative Allowance

Federal regulations for grant programs allow the grant recipients to claim reasonable administrative costs, unless the law authorizing a grant program includes specific provisions for these costs. For the PA Program, the Stafford Act stipulates that each grant recipient be provided an allowance to meet the cost of administering the grant. The allowance is calculated differently for applicants and States and covers different costs for each.

Applicants. The Administrative Allowance for applicants covers direct and indirect costs incurred in requesting, obtaining, and administering public assistance. No other administrative or indirect costs incurred by an applicant are eligible.

Examples of the activities that this allowance is intended to cover include:

- identifying damage;
- attending the Applicants' Briefing;

- completing forms necessary to request assistance;
- establishing files, and providing copies and documentation;
- assessing damage, collecting cost data, and developing cost estimates; and
- working with the State during project monitoring, final inspection, and audits.

The allowance is not intended to cover direct costs of managing specific projects that are completed using public assistance funds. These costs are eligible as part of the grant for each project, as long as they can be specifically identified and justified as necessary to do the work. For example:

The wages of a foreman on the site of a repair project would be a direct cost associated with that project and would not be included in an applicant's Administrative Allowance.

The Administrative Allowance for an applicant is calculated as a percentage of all approved eligible costs that the applicant receives for a given disaster. This percentage is calculated using a sliding scale as indicated in the following table.

Total Amount of PA Program Funds	Allowance
First \$100,000 of net eligible costs	3 percent of the net eligible costs
Next \$900,000 of net eligible costs	2 percent of that \$900,000
Next \$4,000,000 of net eligible costs	1 percent of that \$4,000,000
Net eligible costs in excess of \$5,000,000	½ percent of that excess

States. The Administrative Allowance is provided for the extraordinary costs incurred by a State for overtime pay, per diem, and travel expenses for State employees who participate in the administration of public assistance grants. It does not cover regular time labor costs and other costs directly associated with grant administration.

Examples of administrative activities covered by the allowance include:

- field inspections;
- preparation of damage assessments and cost estimates;
- working with applicants; and
- project monitoring, processing of appeals, final inspections, and audits.

The Administrative Allowance is calculated as a percentage of the Federal share of all public assistance funds actually awarded in the State for a given disaster. The percentage is calculated on eligible costs for the entire disaster using the same sliding scale as that used for applicants.

State Management Administrative Costs

In addition to reimbursement under the Administrative Allowance, States may be reimbursed for the necessary costs of requesting, obtaining, and administering Federal assistance in accordance with 44 CFR 13.22. A *Project Worksheet (PW)* is used to generate the reimbursement of State Management Administrative Costs.

Indirect cost reimbursement is contingent on the State submitting a State Indirect Cost Rate Proposal or a Public Assistance Cost Allocation Plan per Office of Management and Budget Circular A-87, Attachment D and Attachment E, respectively. The proposal or plan should be submitted to FEMA, Office of Financial Management, Disaster Finance Division, Disaster Reports and Analysis Branch for approval.

Categories of Work

To facilitate the processing of public assistance grants, FEMA has divided disaster-related work into seven categories. These categories are divided into emergency work and permanent work as shown in the following table.

Category		Type of Work
Emergency Work:	A	Debris Removal
	B	Emergency Protective Measures
Permanent Work:	C	Roads and Bridges
	D	Water Control Facilities
	E	Buildings and Equipment
	F	Utilities
	G	Parks, Recreational Facilities, and Other Items

Each of these categories is described on the pages that follow.

Category A – Debris Removal

Eligible debris removal activities include the clearance of:

- trees and woody debris;
- building wreckage;
- sand, mud, silt, and gravel;
- vehicles; and
- other disaster-related material.

To be eligible for public assistance, such activities must be necessary to do one of the following:

- eliminate immediate threats to lives, public health and safety;
- 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.

The term “immediate threat” is described in detail on [page 50](#) under Category B – Emergency Protective Measures.

In general, debris on public property that must be removed to allow continued safe operation of governmental functions or to alleviate an immediate threat is eligible. Debris that is blocking streets and highways is a threat to public health and safety because it blocks passage of emergency vehicles or it blocks access to emergency facilities such as hospitals. Debris in a natural stream or flood channel may cause flooding from a future storm. If such flooding would cause an immediate threat of damage to improved property, removal of the debris only to the extent necessary to protect against an immediate threat would be eligible. However, not all public property clearance will necessarily be eligible. Removal of fallen trees in an unused forested or wilderness area would not be eligible.

Where temporary levees have been constructed as an emergency protective measure, removal of them will be eligible only to protect public health and safety or to protect improved public or private property. "Improved property" is defined as a structure, facility, or item of equipment that was built, constructed, or manufactured. It does not include land improved for agricultural use.

Debris on private property is treated somewhat differently. Debris removal from private property is the responsibility of the individual property owner aided by insurance settlements and assistance from volunteer agencies. Many homeowner fire and extended coverage insurance policies have specific coverage for debris removal and for demolition of heavily damaged structures. FEMA assistance is not available to reimburse private property owners for the cost of removing debris from their property; however, an eligible local or State government may pick up and dispose of disaster-related debris placed at the curb by those private individuals. This type of work must be carefully controlled with regard to extent and duration.

If debris on private business and residential property is so widespread that public health, safety, or the economic recovery of the community is threatened, the actual removal of debris from the private property may be eligible. In such situations, the work normally must be done, or be contracted for, by an eligible applicant. If the local government and the State are both incapable of arranging for the work to be done, direct Federal assistance may be requested. Direct Federal assistance is discussed in more detail on [page 60](#) of this guide. Debris removal from private property shall not take place until the State or local government has agreed in writing to indemnify FEMA from a claim arising from such removal and obtained unconditional authorization to remove the debris from the property. Debris removal from agricultural land is not eligible.

Debris cleared from roads and highways, including the travel lanes and shoulders, roadside ditches and drainage structures, and the

maintained right-of-way, may be eligible. For facilities being repaired under the FHWA's ER Program ([see page 19](#)), the debris would be removed as part of that work. However, when the ER Program is activated for an area, FHWA assistance is granted only for portions of the road actually damaged by the disaster; therefore, debris on undamaged sections of highway may be eligible for FEMA assistance.

The removal of debris from parks and recreational areas used by the public is eligible when it affects public health or safety or proper utilization of such facilities. Trees frequently constitute a large part of debris in these areas. Normally, trees requiring removal are flush cut at the ground. Stump removal is not eligible unless it is determined that the stump itself poses a hazard, as when the tree has been uprooted. When eligible, stump removal will be accomplished by the most economical means, such as grinding.

Snow removal assistance is described on [page 52](#) under Category B – Emergency Protective Measures.

Category B - Emergency Protective Measures

Emergency protective measures are those activities undertaken by a community before, during, and following a disaster that are necessary to do one of the following:

- eliminate or reduce an immediate threat to life, public health, or safety; or
- eliminate or reduce an immediate hazard that threatens significant damage to improved public or private property.

In general, emergency protective measures must be cost-effective to be eligible.

Generally, those prudent actions taken by a community to warn residents, reduce the disaster damage, ensure the continuation of

essential public services, and protect lives and public health or safety are eligible for assistance. The following list provides examples of activities that may be eligible. Such activities should be evaluated to ensure that the above criteria are met.

- Search and rescue.
- Emergency medical care.
- Emergency mass care and shelter when such cannot be provided by volunteer agencies. If the applicant's facilities are used by the volunteer agency to provide this care, actual expenses incurred by the applicant, such as supplies or cleanup labor, would be eligible. Expenses of PNPs for providing these services are not eligible because their services are generally charitable in nature.
- Security in the disaster area to include alerting the public of dangers by setting up barricades or other warning devices. Labor, equipment, and materials used in these activities are eligible.
- Provision of food, water, ice, and other essential needs at central distribution points for use by local citizens.
- Provision of temporary facilities for essential community services. Examples include construction of a temporary bridge or detour road to replace an essential crossing facility, temporary hookup of utilities, and essential temporary buildings for schools or government offices. Eligibility criteria for temporary relocation are outlined on [page 31](#).
- Activation of a State or local emergency operations center to coordinate and direct the response to a disaster event. Costs must be associated with a time frame related to circumstances justified by the nature of the emergency or disaster. Often an emergency operations center is used to direct response activities for a period of time, and then its primary activity shifts to managing the Federal assistance.

Because the Stafford Act places limitations on reimbursement for the costs of administering the Federal grant, the applicant should make every effort to keep track of which duties are being performed by the center's personnel.

- Demolition and removal of damaged public and private buildings and structures that pose an immediate threat to the safety of the general public. The threat must be identified by local officials and verified by State and Federal officials. Buildings that were condemned as a safety hazard before the disaster are not eligible.
- Removal of health and safety hazards. Such activities may include the following:
 - disposal of dead animals;
 - pumping of trapped floodwaters;
 - pumping of flooded basements, but only if there is a widespread need affecting numerous homes and businesses in the community;
 - pumping of septic tanks or decontamination of wells, but only if there is a widespread pollution problem; and
 - vector control of rodents or insects when there is a serious health hazard, but not when they are merely a nuisance. Verification of the threat by the Federal Centers for Disease Control may be required.
- Construction of emergency protective measures to protect lives or improved property to include the following:
 - temporary levees, berms, dikes, and sandbagging by itself or on top of a levee;
 - buttressing, bracing, or shoring of a damaged structure to protect against further damage to the structure, or to protect the general public;
 - emergency repairs to protective facilities (work is limited to that which would provide protection from a 5-year event or would restore the facility to its pre-disaster design, whichever is less); and

- placement of sand on a beach to serve as protection of improved property from waves and flooding (the same criteria regarding the level of protection, as discussed above, apply).
- Emergency measures to prevent further damage to the facility. Boarding windows or doors and covering the roof are examples of this work.
- Restoration of access. If a privately owned access (such as a driveway, road, or bridge) is damaged, funds for restoration of this access may be eligible either under FEMA's Individual Assistance Program or FEMA's Public Assistance Program. In cases where homes are inaccessible as a result of the damage, PA Program funds may be used to establish emergency access when the work is done by an eligible applicant. The PA Program staff should coordinate with the Human Services staff to eliminate duplication of effort and funds.

The term "immediate threat" used in the above criteria describes the threat of damage from an event that could reasonably occur within 5 years. The following are examples of how this definition applies to various disaster scenarios.

For a flood, the immediate threat exists if a 5-year flooding event could cause damage or threaten lives, public health, and safety. This is not a flood that necessarily happens within 5 years, but a flood that has a 20 percent chance of occurring in any given year.

For a landslide, an immediate threat may exist if the earth on a slope could slide as the result of a moderate amount of rainfall. A geotechnical study may be necessary to determine if an immediate threat exists.

For an earthquake, an immediate threat may exist if moderate ground shaking, such as might be expected during an aftershock, could cause further damage to a structure or threaten the safety of the structure's occupants.

For a hurricane, an immediate threat may exist if a facility damaged by storm surge could be exposed to additional flooding from a subsequent 5-year event. Similarly, if a wind-damaged facility is subject to additional damage by moderate winds, such winds could be considered an immediate threat.

Other Types of Emergency Work. Specific eligibility criteria may also apply to the provision of emergency communications, public transportation, building inspections, and snow removal. These criteria are defined as follows.

Emergency Communications. The communications system in a local community may be damaged by a disaster to the extent that the local officials are unable to carry out their duties of providing essential community services or responding to the disaster. If this is the case, the establishment of a temporary emergency communications system may be eligible for assistance. This would most often take the form of a mobile radio system or cellular telephones, if the area is served by a cellular system.

Such a system is meant to supplement the portion of the community's communications that remains operable, not to replace or expand the pre-disaster system. The community is expected to repair the damaged system on an expedited basis so that the assistance can be terminated when there is no longer an emergency need.

Emergency Public Transportation. The essential portions of a community's transportation system may be damaged by a disaster to such an extent that the vital functions of community life are disrupted. This situation may involve damage to buses, a subway system, or a bridge between two sections of the city. For some of these damaged facilities, replacement with temporary facilities may provide the solution. In other situations, there may not be a specific damaged facility, but there is still a need to supplement existing transportation.

This condition may result from temporary changes in the location of government facilities or residential areas or a need to access different shopping areas. The supplemental system must be required to ensure access to public places, employment centers, post offices, and schools so that a normal pattern of life may be restored as soon as possible.

Alternative means of providing transportation, such as extra buses or trains or new bus routes, may be eligible. The damaged facilities should be restored, or the need for supplemental transportation should be addressed, as soon as possible so that the assistance can be terminated when there is no longer an emergency need.

Building Inspection. Safety inspections that are necessary to establish if a damaged structure poses an immediate threat to life, public health, or safety after a disaster are eligible. Inspections associated with the reconstruction effort and normal building regulation enforcement process are not eligible, because these inspections go beyond the scope of a safety inspection.

Snow Removal. Snow removal assistance may be eligible for public assistance provided that:

- the snowfall is of record or near record amount;
- the response is beyond the State and local government capabilities; and
- the action is necessary to save lives, protect public health and safety, and protect improved property.

Heavy snowfall over an extended period of time, severe winds and extraordinary drifting, extraordinary ice formations, and the cumulative effect of snow on the ground may be the basis for assistance when the snow depth does not meet the record amount but approximates it.

Snow removal assistance will be provided for a 48-hour period to address the most critical emergency needs. The 48-hour period for snow removal assistance may begin at a time other than when the storm actually began. Each applicant will designate the beginning of its 48-hour period.

Category C – Roads and Bridges

Roads, bridges, and associated facilities are eligible for public assistance. For roads (paved, gravel, and dirt), eligible items include:

- surfaces;
- bases;
- shoulders;
- ditches;
- drainage structures; and
- low water crossings.

For bridges, eligible items include:

- decking and pavement;
- piers;
- girders;
- abutments;
- slope protection; and
- approaches.

Only repairs to disaster-related damage are eligible. In some cases, it may be possible to review pre-disaster bridge inspection reports to determine if damage to a bridge was present before the disaster. As discussed on [page 20](#), permanent restoration of any facility, whether it is a road, bridge, or auxiliary structure, that falls

under the authority of the FHWA is not eligible for public assistance. Other examples of ineligible facilities include roads that service USACE or NRCS levees and dams, private and commercial roads, and homeowners' association roads.

For Category C work, upgrades necessary to meet current standards for road and bridge construction, such as standards for pavement and lane width, may be eligible for public assistance. However, FEMA will not fund construction of additional lanes because such work is beyond that necessary to restore the pre-disaster capacity of the facility.

Landslides. Specific eligibility criteria also apply to slope failures and washouts that are considered landslides. A landslide occurs when a mass of soil, rock, or other material on a slope moves, or threatens to move due to adjacent slope failure, as a result of the disaster. Such slope failures may be caused by soil saturation or by erosion. Stabilization or restoration of failed slopes is only eligible in the situations described below.

Emergency work: If a disaster-related landslide poses an immediate threat to life, public health, and safety, or improved public or private property, cost-effective measures for reducing the threat may be eligible. Examples include evacuation, excavation, buttressing, de-watering, modification of surface drainage, and grading. Such measures must be temporary in nature. Public assistance will be provided to address the area of the immediate threat only, not to stabilize the entire hillside.

Permanent work: If a landslide damages an eligible facility, repairs to that facility are eligible as long as the site is stable. The replacement of a reasonable amount of natural ground necessary to support the facility is eligible. However, if the site was unstable before the disaster, the applicant must pay to stabilize the site before public assistance funds are provided to repair the facility. In some cases, the stability of a site cannot

be determined through visual inspection, and a geotechnical study to determine the existence of instability may be necessary. The cost of such a study may be eligible for public assistance.

Category D – Water Control Facilities

Water control facilities include:

- dams and reservoirs;
- levees;
- lined and unlined engineered drainage channels;
- shore protective devices;
- irrigation facilities; and
- pumping facilities.

Restoration of the carrying capacity of engineered channels and debris basins may be eligible, but maintenance records or surveys must be produced to show the pre-disaster capacity of these facilities. The pre-disaster level of debris in the channel or basin is of particular importance to determine the amount of newly deposited disaster-related debris. Such a facility must also have had a regular clearance schedule to be considered an actively used and maintained facility.

Restoration of reservoirs to their pre-disaster capacity also may be eligible in accordance with the criteria for debris basins described above. Not all reservoirs are cleaned out on a regular basis, and evidence of pre-disaster maintenance must be provided to FEMA. In addition, removal of debris that poses an immediate threat of clogging or damaging intake or adjacent structures may be eligible.

The USACE and NRCS have primary authority for repair of flood control works, whether constructed with Federal or non-Federal funds, as well as authority over federally funded shore protective

devices. Permanent repairs to these facilities are not eligible through the PA Program.

Category E – Buildings and Equipment

Buildings, including contents such as furnishings and interior systems such as electrical work, are eligible for repair or replacement. In addition to contents, public assistance may be requested for the replacement of pre-disaster quantities of consumable supplies and inventory and for the replacement of library books and publications. Removal of mud, silt, or other accumulated debris is eligible, along with any cleaning and painting necessary to restore the building.

If an insurance policy applies to a building, FEMA must take that policy into account before providing funds for restoration of the building. The owners of insurable buildings can expedite the grant process by providing FEMA with policy and settlement information as soon as possible after a disaster occurs. Detailed information on insurance is contained in Chapter 4.

FEMA may pay for upgrades that are required by certain codes and standards. An example might be roof bracing installed following a hurricane. For repairs, upgrades are limited to damaged elements only. If a structure must be replaced, the new facility must comply with all appropriate codes and standards. Refer to [page 27](#) for details.

If a damaged building must be replaced, FEMA has the authority to pay for a building with the same capacity as the original structure. However, if the standard for space per occupant has changed since the original structure was built, FEMA will pay for construction of a larger building to the original design capacity. A Federal, State, or local agency or statute must mandate the increase in space; the increase cannot be based only on design practices for an industry or profession. FEMA will not fund additional capacity necessary due to increased population or use, even if required by code.

When museums, either publicly owned or owned by a PNP, are involved in disasters, culturally significant collections or objects may be damaged. Collections and objects in a museum, by their very nature, generally are one-of-a-kind and thus cannot be replaced. Therefore, replacement of destroyed collections or objects is not an eligible cost.

FEMA may, however, fund stabilization measures. Stabilization involves taking the minimum steps necessary to return a collection or object to a condition in which it can function in the same capacity as it did prior to the disaster. FEMA's Preservation Officer (or designer) in consultation with the applicant and the State, will use professional judgement to determine if additional treatment beyond stabilization is necessary to maintain the integrity of the collection or object and return it to its pre-disaster function.

When equipment, including vehicles, is not repairable, FEMA will approve the cost of replacement with used items that are approximately the same age, capacity, and condition. Replacement of an item with a new item may be approved only if a used item is not available within a reasonable time and distance.

When a piece of applicant-owned equipment is performing eligible disaster work, extraordinary damage to the equipment that is caused by the disaster may be eligible. However, the cost of increased maintenance resulting from excess use is not eligible, because the cost of maintenance is included in FEMA's equipment rates. Damage that could have been reasonably avoided such as an accident also is not eligible. Reimbursement for the eligible damage is in addition to the applicable FEMA equipment rate being paid for the time the equipment was performing eligible work.

Category F – Utilities

Utilities include:

- water treatment plants and delivery systems;

- power generation and distribution facilities, including generators, substations, and power lines; and
- sewage collection systems and treatment plants.

The owner of a facility is responsible for determining the extent of damage; FEMA does not provide funds for random surveys to look for damage, such as video inspection of sewer lines. If disaster-related damage is evident, however, FEMA may pay for inspections to determine the extent of the damage and method of repair. When disaster-related damage is discovered during a random survey, inspection of the damaged section only is eligible. When evaluating the repair of damage at multiple locations in a pipeline or other continuous facility, the possibility of replacing a whole section should be investigated. If the breaks are close together, replacing the entire section may be more economical than piecemeal repair.

While FEMA will pay for restoration of damaged utilities, FEMA does not provide funds for increased operating expenses resulting from a disaster. Similarly, FEMA cannot provide funds for revenue lost if a utility is shut down. However, the cost of establishing temporary emergency services in the event of a utility shut-down may be eligible.

Category G – Parks, Recreational, and Other

Eligible publicly-owned facilities in this category include:

- playground equipment;
- swimming pools;
- bath houses;
- tennis courts;
- boat docks;
- piers;

- picnic tables; and
- golf courses.

Other types of facilities, such as roads, buildings and utilities, that are located in parks and recreational areas are also eligible and are subject to the eligibility criteria for Categories C, D, E, and F.

As stated on [page 16](#) of this guide, natural features are not eligible facilities unless they are improved and maintained. This restriction applies to features located in parks and recreational areas. Specific criteria apply to beaches and to trees and ground cover, as described below.

Beaches. Emergency placement of sand on a natural or engineered beach may be eligible when necessary to protect improved property from an immediate threat. Protection may be to a 5-year storm profile or to its pre-storm profile, whichever is less.

A beach is considered eligible for permanent repair if it is an improved beach and has been routinely maintained prior to the disaster. A beach is considered to be an “improved beach” if the following criteria apply:

- the beach was constructed by the placement of sand to a designed elevation, width, grain size, and slope; and
- the beach has been maintained in accordance with a maintenance program involving the periodic re-nourishment of sand at least every 5 years.

Typically, FEMA will request the following from an applicant before approving assistance for permanent restoration of a beach:

- design documents and specifications, including analysis of grain size;
- “as-built” plans;

- documentation of regular maintenance or nourishment of the beach; and
- pre- and post-storm cross sections of the beach.

Permanent restoration of sand on natural beaches is not eligible.

Trees and Ground Cover. The replacement of trees, shrubs, and other ground cover is not eligible. This restriction applies to trees and shrubs in recreational areas, such as parks, as well as trees and shrubs associated with public facilities, such as those located in the median strips along roadways and as landscaping for public buildings. Grass and sod are eligible only when necessary to stabilize slopes and minimize sediment runoff.

This restriction does not affect removal of tree debris or the removal of trees as an emergency protective measure. FEMA will reimburse for the removal of tree debris and the removal of trees as emergency protective measures if the removal eliminates an immediate threat to lives, public health and safety, and improved property, or if removal is necessary to ensure the economic recovery of the affected community to the benefit of the community-at-large. However, FEMA will not reimburse for the replacement of these trees.

Direct Federal Assistance

When the impact of a disaster is so severe that neither the State nor local government can respond, the State may request that certain emergency work be performed directly by a Federal agency. FEMA, through "mission assignments", may use appropriate Federal agencies to perform this work.

The work to be performed must be eligible under the Stafford Act and Federal regulations and is limited to the following:

- debris removal; and
- emergency protective measures.

The assistance will also be subject to the cost-sharing provisions applicable to the disaster. The State will reimburse FEMA for the appropriate non-Federal share of the cost of the work, including any administrative costs of the performing Federal agency.

A request for direct Federal assistance must be submitted by the State to the DRM either on its own behalf or on behalf of an applicant. The request must include the items listed below.

- A written agreement that the State will:
 - provide, without cost to the United States, all lands, easements, and rights-of-way necessary to complete the approved work;
 - hold and save the United States free from damages due to the requested work and indemnify the Federal government against any claims arising from such work;
 - provide reimbursement to FEMA for the non-Federal share of the cost of the work; and
 - assist the performing Federal department or agency in all support and local jurisdictional matters.
- A statement explaining why the State and local governments are unable to perform or contract for the work.
- If the State is legally unable to agree to the first two items listed under the first bullet above, an agreement from the applicant that it will be responsible for the items. The provision of lands, easements, or rights-of-way without cost to the United States means that any leasing or purchase costs will be borne by non-Federal interests. The costs of preparation for the assistance operations and costs of restoration to pre-operation conditions will be eligible for Federal assistance.

If the DRM concurs with the request, a mission assignment will be made to the appropriate Federal agency. That agency may perform the work directly or it may contract with private firms.

CHAPTER 3

APPLYING FOR PUBLIC ASSISTANCE

Following a disaster declaration by the President, FEMA makes assistance for recovery from the disaster available to eligible applicants. This chapter describes the process through which this assistance becomes available.

Process Overview

The PA Program is implemented through the steps listed below, each of which is described in detail in this chapter.

- An Applicants' Briefing is held.
- Potential applicants submit the *Request for Public Assistance*.
- A PAC is assigned to each applicant.
- The PAC holds a Kickoff Meeting with the applicant.
- The applicant's specific needs are identified and cost estimates developed through the project formulation process.
- Cost estimates for small projects that have been prepared by the applicant are checked through the validation process.
- FEMA approves and processes grants for the applicant's projects.

Projects. A project is a logical method of performing work required as a result of the declared event. A project may consist of one item of work, such as repairs to a single structure, or work that occurs at multiple sites, such as repairs to several washouts along a road. The applicant is responsible for identifying all work that is required as a result of the disaster. The PAC may assist the applicant in combining various recovery efforts into projects.

Applicants' Briefing

An Applicants' Briefing is a meeting conducted by a representative of the State for potential public assistance applicants. The briefing occurs after an emergency or major disaster has been declared and addresses application procedures, administrative requirements, funding, and program eligibility criteria.

The State representative is responsible for notifying potential applicants of the date, time, and location of the briefing. The size of the disaster area and the number of possible applicants determine whether more than one briefing is held. FEMA personnel should participate in the briefing to clarify issues regarding eligibility, floodplain management, insurance requirements, environmental and historic considerations, and Federal procurement standards. To obtain the maximum benefit from the information presented at the briefing, each applicant should send representatives from each of the following:

- management;
- public works; and
- finance.

Representatives of potentially eligible PNPs should attend the briefing.

Request for Public Assistance (Request)

The *Request for Public Assistance (Request)* is an applicant's official notification to FEMA of the intent to apply for public assistance. A copy of this form is shown in Figure 1. The form outlines general information identifying the applicant, including the applicant's name, address, and primary and secondary contacts.

FEDERAL EMERGENCY MANAGEMENT AGENCY REQUEST FOR PUBLIC ASSISTANCE		O.M.B. No. 3067-0151 Expires April 30, 2001	
PAPERWORK BURDEN DISCLOSURE NOTICE Public reporting burden for this form is estimated to average 10 minutes. The burden estimate includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the needed data, and completing and submitting the forms. You are not required to respond to this collection of information unless a valid OMB control number is displayed in the upper right corner of the forms. Send comments regarding the accuracy of the burden estimate and any suggestions for reducing the burden to: Information Collections Management, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, Paperwork Reduction Project (3067-0151). NOTE: Do not send your completed form to this address.			
APPLICANT (Political subdivision or eligible applicant.)		DATE SUBMITTED	
COUNTY (Location of Damages. If located in multiple counties, please indicate.)			
APPLICANT PHYSICAL LOCATION			
STREET ADDRESS			
CITY	COUNTY	STATE	ZIP CODE
MAILING ADDRESS (If different from Physical Location)			
STREET ADDRESS			
POST OFFICE BOX	CITY	STATE	ZIP CODE
Primary Contact/Applicant's Authorized Agent		Alternate Contact	
NAME		NAME	
TITLE		TITLE	
BUSINESS PHONE		BUSINESS PHONE	
FAX NUMBER		FAX NUMBER	
HOME PHONE (Optional)		HOME PHONE (Optional)	
CELL PHONE		CELL PHONE	
E-MAIL ADDRESS		E-MAIL ADDRESS	
PAGER & PIN NUMBER		PAGER & PIN NUMBER	
Did you participate in the Federal/State Preliminary Damage Assessment (PDA)? <input type="checkbox"/> Yes <input type="checkbox"/> No			
Private Non-Profit Organization? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, which of the facilities below best describe your organization? _____			
Title 44 CFR, part 206.221(e) defines an eligible private non-profit facility as: "... any private non-profit educational, utility, emergency, medical or custodial care facility, including a facility for the aged or disabled, and other facility providing essential governmental type services to the general public, and such facilities on Indian reservations." "Other essential governmental service facility" means museums, zoos, community centers, libraries, homeless shelters, senior citizen centers, rehabilitation facilities, shelter workshops and facilities which provide health and safety services of a governmental nature. All such facilities must be open to the general public.			
Private Non-Profit Organizations must attach copies of their Tax Exemption Certificate and Organization Charter or By-Laws. If your organization is a school or educational facility, please attach information on accreditation or certification.			
Official Use Only: FEMA- _____ -DR- _____ - FIPS # _____ Date Received: _____			

Figure 1

Typically the *Request* form is submitted at the Applicants' Briefing. If an applicant is unable to submit the *Request* at the Applicants' Briefing, the applicant must submit the form within 30 days of the date of designation of the county for public assistance. An applicant need not wait until all damage is identified before re-requesting assistance. Federal and State personnel will review each *Request* to ensure applicant eligibility. Once a *Request* has been submitted, the project formulation process can begin.

As *Requests* are submitted, the State may designate a State Applicant Liaison (Liaison) who will ensure that the applicant's needs are met. The Liaison will work closely with the applicant and FEMA throughout the recovery process.

Assignment of the Public Assistance Coordinator (PAC)

Once the *Request* has been forwarded to FEMA, the applicant is assigned to a PAC. The PAC is a FEMA program expert who serves as the applicant's customer service representative on PA Program matters and manages the processing of the applicant's projects. The PAC, in coordination with the Liaison:

- meets with the applicant to discuss the program and its application to the applicant's specific needs;
- works with the applicant to develop projects;
- obtains the appropriate technical assistance if required by the applicant;
- ensures that projects comply with all applicable laws, regulations, and policies;
- ensures that any Special Considerations associated with a project are identified and reviewed;
- coordinates with the State as necessary to resolve problems; and

- maintains the applicant's Case Management File, an electronic record of the steps taken to provide the applicant with assistance.
-

Kickoff Meeting

Within one week of FEMA's receipt of an applicant's *Request*, the PAC and Liaison will contact the applicant to schedule a Kickoff Meeting. This meeting differs from the Applicants' Briefing conducted by the State at the onset of disaster operations. Whereas the Applicants' Briefing describes the application process and gives a general overview of the PA Program, the Kickoff Meeting is designed to provide a much more detailed review of the PA Program. The meeting is the first step in establishing a partnership among the PAC, the Liaison, and the applicant and is designed to focus on the specific needs of that applicant. This approach allows the PAC and Liaison to concentrate on the eligibility and documentation requirements that are most pertinent to an applicant.

The PAC also discusses Special Considerations, such as floodplain management, insurance, hazard mitigation opportunities, and compliance with environmental and historic preservation laws, that could potentially affect the type and amount of assistance available and the documentation needed. Special Considerations are discussed in Chapter 4.

Project Formulation

Project formulation is the process of identifying the eligible scope of work and estimating the costs associated with that scope of work for each of the applicant's projects. This section describes the elements of the project formulation process.

Small and Large Projects

To facilitate project review, approval, and funding, projects are divided into two groups. The division is based on the monetary threshold established in Section 422 of the Stafford Act and elaborated on in 44 CFR 206.203(c). Small projects are those projects with a total estimated cost below the threshold, and large projects are those projects with a total estimated cost at or above the threshold. The threshold is adjusted each fiscal year to account for inflation. For fiscal year 1999, the threshold is \$47,800. The determination of the threshold that will be used for a disaster is based on the declaration date of the disaster, regardless of when project approval is made or when the work is performed. Funding methods for small and large projects differ as explained below.

Small Projects. Small project funding is based on estimated costs, if actual costs are not yet available. This simplified procedure was provided in the Stafford Act to streamline processing and speed payment to the applicant. The State forwards the total Federal share of funds to the applicant as soon as practicable after project approval. Payment methods are described in more detail on [page 82](#) of this guide.

Large Projects. Large project funding is based on documented actual costs. Because of the complexity and nature of most large projects, however, work typically is not complete at the time of FEMA approval. Therefore, large projects initially are approved based on estimated costs. Funds generally are made available to the applicant on a progress payment basis as work is completed. When all work associated with the project is complete, the State performs a reconciliation of actual costs and transmits the information to FEMA for final funding adjustments. Payment methods are described in more detail on [page 83](#) of this guide.

The Project Worksheet

The *Project Worksheet (PW)* is the primary form used to document the scope of work and cost estimate for a project (Figure 2). The *PW* includes the location, damage description and dimensions, scope of work, and cost estimate for each project.

The applicant is responsible for preparing *PWs* for small projects and submitting the *PWs* to the PAC. The applicant must submit small project *PWs* to the PAC within 60 days of the Kickoff Meeting. However, applicants are strongly encouraged to submit *PWs* as soon as possible to expedite the assistance process. If the applicant requires assistance with the preparation of *PWs*, the PAC may assign a Project Officer or Specialist to provide the applicant with technical assistance.

For large projects, a Project Officer is responsible for working with the applicant to prepare the *PW*. The Project Officer may lead a team that includes a representative of the State and one or more Specialists, depending on the type and complexity of the project.

Combining Work and Creating Projects

The applicant, in coordination with the PAC, may combine work items into projects. In this manner, the projects may be organized around the applicant's needs. A project may consist of one item of work or it may consist of several. The table on [page 71](#) describes methods of combining projects.

FEDERAL EMERGENCY MANAGEMENT AGENCY PROJECT WORKSHEET				O.M.B. No. 3067-0151 Expires April 30, 2001	
PAPERWORK BURDEN DISCLOSURE NOTICE					
Public reporting burden for this form is estimated to average 30 minutes. The burden estimate includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the needed data, and completing and submitting the forms. You are not required to respond to this collection of information unless a valid OMB control number is displayed in the upper right corner of the forms. Send comments regarding the accuracy of the burden estimate and any suggestions for reducing the burden to: Information Collections Management, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, Paperwork Reduction Project (3067-0151). NOTE: Do not send your completed form to this address.					
DECLARATION NO. FEMA- ____ -DR- ____		PROJECT NO.	FIPS NO.	DATE	CATEGORY
DAMAGED FACILITY				WORK COMPLETE AS OF: _____ : _____ %	
APPLICANT			COUNTY		
LOCATION				LATITUDE	LONGITUDE
DAMAGE DESCRIPTION AND DIMENSIONS					
SCOPE OF WORK					
<div style="font-size: 100px; opacity: 0.2; transform: rotate(-15deg); pointer-events: none;">SAMPLE</div>					
Does the Scope of Work change the pre-listed conditions at the site? <input type="checkbox"/> Yes <input type="checkbox"/> No					
Special Considerations issues included? <input type="checkbox"/> Yes <input type="checkbox"/> No Hazard Mitigation proposal included? <input type="checkbox"/> Yes <input type="checkbox"/> No					
Is there insurance coverage on this facility? <input type="checkbox"/> Yes <input type="checkbox"/> No					
PROJECT COST					
ITEM	CODE	NARRATIVE	QUANTITY/UNIT	UNIT PRICE	COST
			/		
			/		
			/		
			/		
			/		
			/		
			/		
			/		
			/		
			/		
TOTAL COST					
PREPARED BY:			TITLE:		

FEMA Form 90-91, SEP 98

REPLACES ALL PREVIOUS EDITIONS.

Figure 2

Method	Explanation
Type of damage	<ul style="list-style-type: none"> an applicant could combine all sewer pump stations or gravel roads together
System	<ul style="list-style-type: none"> an applicant could combine repair of several breaks in a water distribution system together
Boundaries	<ul style="list-style-type: none"> an applicant may have divided power lines into sectors or a road department into divisions for ease of operation
Method of work	<ul style="list-style-type: none"> one contract could be a project or a group of contracts let to one contractor could be a project

Note that emergency work and permanent work may be combined into one project only when the emergency work is incidental to the permanent work. For example, if storm-generated debris must be removed from a building before the building can be repaired, the project could include both the debris removal and the repair work.

If multiple sites are combined into one project with an estimated cost above the large project threshold, that project will be considered a large project. A Project Officer will be assigned to work with the applicant to complete the *PW* for that project.

Damage Description and Scope of Work

A complete, accurate damage description and scope of work must be developed for each project. Critical elements include:

- the project location;
- the description, dimensions, and cause of damage; and

- the scope of eligible work necessary to repair the damage.

Project Location. The exact location of the damaged facility or area where the disaster costs covered by the project were or will be incurred must be identified. This information should be specific enough to enable other field personnel to easily locate the facility if a site visit is necessary. If possible, the precise latitude and longitude of the damaged site should be included.

Damage Description and Dimensions. The cause of damage, a description of the damaged elements of the facility, and the dimensions of the damaged elements must be included on the *PW*.

The specific cause of damage must relate to the incident for which the disaster was declared. It is important to completely describe the cause of damage because it can affect eligibility determinations. For instance, consider the two situations described below.

- If an uninsured public building located in the 100-year floodplain is damaged by wind, the total cost of repairs is eligible. However, if the same building is damaged by a flood, the amount of assistance would be reduced by the maximum amount of flood insurance available under the National Flood Insurance Program.
- Widespread “alligator cracking” of roads generally is not eligible for repair because it indicates damage that was present before the disaster. However, cracking in specific areas due to uplift from soils saturated by floodwaters is eligible for repair.

The damage must be described in terms of the facility, features, or items requiring repair. All damaged elements must be clearly defined in quantitative terms with physical dimensions (such as length, width, depth, and capacity). Without appropriate

dimensions of the damaged elements, proper estimates of material quantities cannot be developed. It may also be necessary to provide a brief description of the pre-disaster condition and use of facility.

In some disasters, applicants may perform work to protect against a threat to improved property. For such situations, the *PW* should contain a brief description of the threat and of the threatened improved property.

Scope of Work. The scope of work necessary to repair the damage must be completely described and correspond directly to the cause of damage. The work should be specified as an action with quantifiable (length, width, depth, capacity) and descriptive (brick, wood, asphalt, timber deck bridge) terms. The scope of work should not be described only as “restore to pre-disaster design.” If part of the work is completed prior to project approval, the actual work that was performed should be distinguished from the work remaining.

Any other information that is pertinent to the scope of work, such as upgrades required by current codes and standards, should be documented. Copies of codes and standards may be required to be submitted. Evidence of pre-disaster damage, such as pre-disaster inspection reports, should be documented.

Cost Estimate

FEMA may grant funds on the basis of actual costs or on estimates of work to be completed. The three primary methods for determining costs are time and materials, unit cost, and contracts. The method used to determine costs for a particular project depends on whether the work is complete or to be completed.

Work Complete	If the work was completed by force account labor, actual personnel, materials and equipment costs are used (time and materials method.) If a contractor performed the work, reasonable actual contract costs are used.
Work to be completed	If the work has not been initiated, the unit cost method should be used whenever possible.

Time and Materials. The time and materials method is used to summarize actual costs of force account labor, equipment, and materials. Costs must be documented by payroll information, equipment logs or usage records, and other records, such as invoices, receipts, or work orders prepared by the applicant.

As stated in Chapter 2, FEMA publishes a national listing of equipment rates. FEMA equipment rates, however, do not include operator costs. The applicant should identify operator labor separately. FEMA equipment rates do not apply to contracted or rental equipment, unless the equipment is rented from another public entity. An applicant's own equipment rates or rates established by the State may be used, provided that they meet the criteria outlined in Chapter 2.

Unit Cost. The unit cost method is used to develop *PWs* for work to be completed. Under this method, unit costs are applied to specific elements of the scope of work. Typically unit prices are based on in-place costs, incorporating materials, labor, equipment, insurance, overhead, and profit for all activities needed to complete that item of work. For example:

The \$14 per linear foot unit cost to replace concrete curb and gutter includes all costs for setting up and breaking down the forms and pouring and finishing the concrete. In other words, the \$14 includes the cost of labor, equipment, and materials.

There are numerous sources that may be used in the preparation of estimates based on unit costs. These sources include:

- commercial estimating sources;
- State or local data from previously completed projects; and
- FEMA cost codes.

Contracts. Contract pricing is used to determine the cost of work for which the applicant has used labor, equipment, and material from an outside source. In general, contract costs are used for work already complete, but in some cases contract information may be used to estimate costs for work that is just beginning or still underway. If work has not yet begun on a project, but a contract has been bid or let, the contract price can be used.

Engineering and Design Services

The costs of basic engineering and design services normally performed by an architectural-engineering firm on complex construction projects are eligible for reimbursement. Such services include:

- preliminary engineering analysis;
- preliminary design;
- final design; and
- construction inspection.

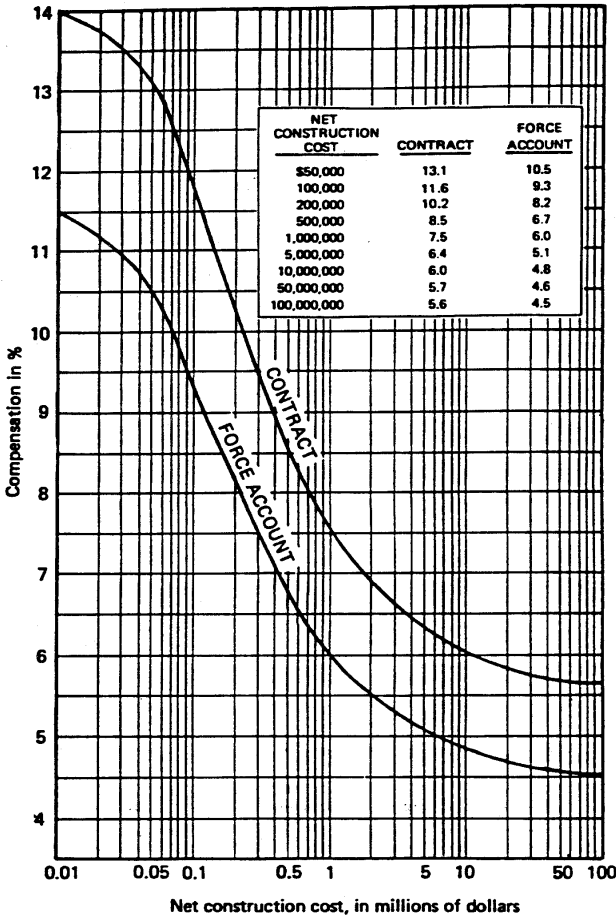
While a final inspection and reconciliation will be used to determine the actual costs for reimbursement of these services, the costs can be estimated during project formulation using a percentage of the construction cost. Percentages are derived from FEMA engineering and design services cost curves. These curves, which were developed for FEMA by the American Society of Civil Engineers, show a correlation between engineering costs and total construction costs. These curves are shown in Figures 3 and 4. To use the curves, estimate construction costs for a project. Find the construction cost on the horizontal axis and, using the appropriate curve for either force account or contract work, read the associated percentage of engineering and design services from the vertical axis. This percentage can be multiplied by the estimated construction cost to determine an appropriate engineering and design cost estimate.

Curve A applies to projects of above-average complexity and non-standard design. Examples of such projects include:

- airports with extensive terminal facilities;
- water, wastewater, and industrial waste treatment plants;
- hospitals, schools, and office buildings;
- power plants;
- large dams and complicated small dams;
- highway and railway tunnels;
- pumping stations;
- incinerators; and
- complicated waterfront and marine terminal facilities.

ENGINEERING AND DESIGN SERVICES

CURVE A, COMPENSATION FOR BASIC SERVICES EXPRESSED AS A PERCENTAGE OF CONSTRUCTION COST FOR PROJECTS OF ABOVE-AVERAGE COMPLEXITY AND NON-STANDARD DESIGN

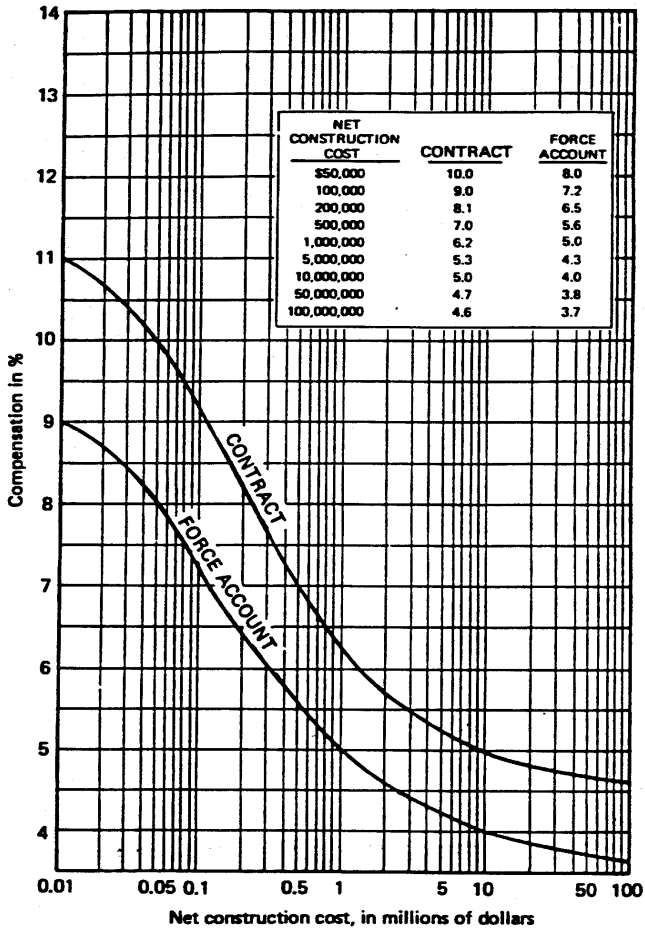


"Contract" and "Force Account" above mean engineering and design services performed by contract or by an applicant's own employees, respectively.

Figure 3 - Cost Curve A

ENGINEERING AND DESIGN SERVICES

CURVE B, COMPENSATION FOR BASIC SERVICES EXPRESSED AS A PERCENTAGE OF CONSTRUCTION COST FOR PROJECTS OF AVERAGE COMPLEXITY



"Contract" and "Force Account" above mean engineering and design services performed by contract or by an applicant's own employees, respectively.

Figure 4 - Cost Curve B

Curve B applies to projects of average complexity. Examples of such projects include:

- industrial buildings, warehouses, garages, hangars, and comparable structures;
- bridges and other structures of conventional design;
- simple waterfront facilities;
- roads and streets;
- conventional levees, floodwalls, and retaining walls;
- small dams;
- storm sewers and drains;
- sanitary sewers;
- water distribution lines;
- irrigation works, except pumping plants; and
- airports, except as classified for Curve A.

In addition to the basic engineering services, special services may be required for some projects. Such services include engineering surveys, soil investigations, services of a resident engineer, and feasibility studies. Because special services are not required on all projects, they are not included in the percentages on the engineering and design services curves. These services are estimated separately.

If a project requires only basic construction inspection services, a fee not exceeding 3 percent of construction costs may be used for the estimate. Inspection functions include review of bids, work site inspection visits, checking and approval of material samples, review of shop drawings and change orders, review of contractor's request for payment, and acting as the client's representative. An example of a project requiring only inspection services but no design would be a debris disposal site where the material must be carefully placed and compacted to ensure stability.

Estimates for engineering and design services and construction inspection typically are not included in small project estimates except for complex projects or projects where special services are required.

Validation

The applicant may prepare *PWs* for small projects. While some applicants may request assistance from FEMA or the State in preparing their *PWs*, other applicants will proceed without assistance. Validation is conducted for those applicants who prepare their own *PWs*. The purpose of the small project validation process is to ensure that:

- the applicant has developed complete, accurate scopes of work;
- the work and costs included in the *PWs* are eligible for public assistance; and
- the cost estimates are accurate and reasonable.

Typically, only 20 percent of an applicant's small projects are assessed in the validation process. However, if significant discrepancies are found in the sample, a second sample of 20 percent is assessed. If discrepancies are again found in that sample, the applicant will be provided with technical assistance for review of all small projects.

Note that the 20 percent sample only applies to projects submitted within 30 days of the date of the Kickoff Meeting. Although an applicant has 60 days to submit all small *PWs*, small *PWs* submitted after 30 days are subject to 100 percent validation. For this reason, applicants are encouraged to submit small project *PWs* as early as possible.

Validated projects will be reviewed for work, cost, contract eligibility, and Special Considerations as described on [page 81](#).

Work. Projects will be reviewed to ensure that the work meets all applicable eligibility criteria, as described in Chapter 2. The damage description and scope of work must be accurate and complete. The review will ensure that the scope of work is appropriate for the type and dimensions of damage, and that Special Considerations are clearly documented (these considerations are described in Chapter 4).

Cost. Costs will be reviewed to ensure that they are error-free and eligible. Applicants must provide labor, equipment, and materials summaries for use in the review. Items that will be checked include:

- identification of persons whose wages are being included in the cost summary, by date, position, and hours worked;
- separate summaries for overtime and regular time hours with the fringe benefit rates identified for both;
- a summary of operator hours for any equipment being claimed (operator hours must match or exceed equipment hours; note that regular time hours for emergency work, even though ineligible, are needed to justify equipment usage);
- identification of volunteer, prison, or reassigned labor; and
- copies of purchase orders, invoices, inventory records, or stock tickets with material type and quantity included.

Contract. Contracts will be reviewed to ensure that they adhere to appropriate procurement regulations, are based on reasonable costs, and pertain to the eligible scope of work. A copy of the contract must be on file.

Special Considerations. The Specialist who conducts the validation must note possible Special Considerations, such as insurance, floodplain management, hazard mitigation, and compliance with environmental and historic preservation laws, and report those considerations to the PAC.

Large Projects

Large projects will not be validated. The Project Officer, working with the applicant, is responsible for developing the scope of work and cost estimate for a large project and submitting the *PW* to the PAC for review and processing.

Grant Processing

FEMA and the State share responsibility for making PA Program funds available to the applicant. FEMA is responsible for approving projects and making the Federal share of the approved amount (that is, the grant) available to the State through a process known as obligation. Funds that FEMA has obligated are available to the State via electronic transfer, but reside in a Federal account until the State is ready to award grants to the appropriate applicants. The State is responsible for providing the State share of the grant amount and for notifying the applicant that funds are available. The State must use methods and procedures for payment that minimize the time between the transfer of funds and disbursement by the State in accordance with Federal cash management requirements. FEMA funds should be requested by the State to cover the immediate cash needs of the applicant only.

The method of payment to the applicant is dependent on the type of project.

Methods of Payment

Small Projects. Payment for small projects is made on the basis of the estimate prepared at the time of project approval. The State is required to make payment of the Federal share to the applicant as soon as practicable after FEMA has obligated the funds.

Once all small projects are complete, the State must certify that work has been completed in accordance with the approved scope of work on the *PW*, in compliance with FEMA standards and policies, and that all payments due have been made. This certification does not specify the amount spent on the projects, only that the projects were completed. If the applicant spends less than the amount approved by FEMA, the Federal share will not be reduced to match actual costs. However, if the applicant incurs costs significantly greater than the total amount approved for *all* small projects, the applicant may apply for additional funding.

Note that this opportunity applies only to a net cost overrun for all small projects, not to an overrun for an individual project. This policy is based on the fact that small projects with cost underruns typically will offset those small projects where the applicant experienced cost overruns.

Large Projects. Large projects are funded on documented actual costs. Because of the nature of most large projects, work typically is not complete at the time of project approval; therefore, FEMA will obligate grants based on an estimated cost.

Such monies may not be immediately drawn down by the State. Instead, progress payments are made to the applicant as actual costs are documented. Upon completion of a large project, an applicant must submit documentation to account for all incurred costs to the State. The State is responsible for ensuring that all incurred costs are associated with the approved scope of work and for certifying that work has been completed in accordance with FEMA standards and policies. The State then submits documentation of project costs to FEMA for review. FEMA may conduct a final inspection as part of this review. Once the review is complete, FEMA determines whether funds should be obligated or deobligated for the project.

Funding Options

Grants for most projects are processed in the manner described above. However, an applicant may elect to use a public assistance grant for activities that are outside of the originally approved scope of work. Funding options available to the applicant are described below.

Alternate Projects. An applicant may determine that the public welfare would not be best served by restoring a damaged facility or its function to the pre-disaster design. In this event, the applicant may use the Public Assistance grant for that facility for other purposes. For example, if an applicant decides not to repair a damaged school, it may use the grant for repair of the school as an alternate project grant to make improvements to an undamaged office building, or to purchase new school buses. Funds also may be used on more than one alternate project.

An applicant may request an alternate project in lieu of both small and large projects, but only for permanent restoration projects; funds for debris removal and emergency protective measures cannot be used for alternate projects. Funds for alternate projects are limited to 90 percent of the Federal share of the eligible costs that would have been associated with repairing the damaged facility to its pre-disaster design or to the actual costs of completing the alternate project, whichever is less. Funds for alternate projects cannot be used for operating costs or to meet the State or local share requirement on other public assistance projects or projects that utilize other Federal grants. In general, they may be used for capital projects such as facilities or equipment. Alternate projects for PNP applicants must be for facilities that would be eligible for assistance under Section 406 of the Stafford Act. Alternate project funds may be used for hazard mitigation projects including construction of physical facilities, development of regulations, or other activities that would otherwise be eligible through the Hazard Mitigation Grant Program under Section 404 of the Stafford Act.

All alternate projects must be approved by FEMA **prior to construction**. FEMA must ensure that the proposed project represents an appropriate use of funds and complies with applicable environmental and historic preservation laws.

Improved Projects. When performing restoration work on a damaged facility, an applicant may decide to use the opportunity to make improvements to the facility. For example, the applicant may decide to lay asphalt on a gravel road or replace a firehouse that originally had two bays with one that has three. Projects that incorporate such improvements are called improved projects. An applicant may request an improved project for either a small or large project. The improved facility must have the same function and at least the equivalent capacity as that of the pre-disaster facility. Funding for such projects is limited to the Federal share of the costs that would be associated with repairing or replacing the damaged facility to its pre-disaster design.

The applicant must obtain approval for an improved project from the State **prior to construction**. Further, any improved project that results in a significant change from the pre-disaster configuration (that is, different location, footprint, function, or size) of the facility must also be approved by FEMA prior to construction to ensure completion of the appropriate environmental or historic review.

Appeals

The appeals process is the opportunity for applicants to request reconsideration of decisions regarding the provision of assistance. There are two levels of appeal. The first level appeal is to the RD. The second level appeal is to the EAD at FEMA Headquarters.

Typical appeals involve the following:

- an entity is not an eligible applicant;

- a facility, an item of work, or a project is not eligible for disaster assistance;
- approved costs are less than the applicant believes to be necessary to complete the work;
- a requested time extension was not granted; or
- a portion of the cost claimed for the work is not eligible.

The applicant must file an appeal with the State within 60 days of receipt of a notice of the action that is being appealed. The applicant must provide documentation to support the appeal. This documentation should explain why the applicant believes the original determination is wrong and the amount of adjustment being requested. The State will review the appeal documentation and request additional information if necessary. The State will then prepare a written recommendation on the merits of the appeal and forward that recommendation to FEMA within 60 days of its receipt of the appeal letter or receipt of additional information that it had requested.

The RD will review the appeal and within 90 days will take one of two actions:

- render a decision on the appeal and inform the State of the decision; or
- request additional information.

Normally, the applicant will have 60 days to provide any additional information, and the RD will provide a decision on the appeal within 90 days of receipt of that information. If the appeal is granted, the RD will take appropriate action, such as approving additional funding or sending a Project Officer to meet with the applicant to determine additional eligible funding.

If an appeal is denied by the RD, the applicant may submit a second appeal to the EAD. The applicant must submit the appeal to the State within 60 days of receiving the RD's denial. The

State must forward the appeal with a written recommendation to the RD within 60 days of receiving the applicant's letter. The RD will review the information provided with the appeal and request additional information if required. The appeal will then be forwarded with the recommendation for action to the EAD as soon as practicable.

The EAD will review the appeal and within 90 days will render a decision or request additional information from the applicant. In an unusual case involving highly technical issues, the EAD may request an independent scientific or technical analysis by a group or person having expertise in the subject matter of the appeal. Upon receipt of the information, the EAD shall render a determination on the appeal within 90 days. Any required actions, such as obligation or deobligation of funds, will be taken by the RD.

Closeout

The PA Program will be considered programmatically "closed" when all projects have been described and approved, appeals have been resolved, and funds have been obligated. This phase of the PA Program will end when there is a well-defined understanding of the total amount of Federal funds that will be obligated for the disaster.

Financial reconciliation of the grant occurs later, when FEMA and the State reach agreement that all applicable administrative actions related to the grant are complete and all program funds have been reconciled. At that point, all PA Program projects have been completed, the State has awarded all grant funds and submitted its final expenditure report to FEMA, and FEMA has adjusted the funding level for the program.

CHAPTER 4

SPECIAL CONSIDERATIONS

What Are Special Considerations?

FEMA uses the term “Special Considerations” to describe issues other than program eligibility that affect the scope of work and funding for a project. These issues include:

- floodplain management;
- insurance;
- hazard mitigation; and
- compliance with other Federal laws and regulations, such as those that address protection of the environment and historic preservation.

Each of these issues is described in greater detail later in this chapter.

Timely identification and resolution of Special Considerations issues prior to initiation of disaster-related work is critical to the effective delivery of the PA Program. If FEMA, the State, and the applicant fail to identify and address these issues expeditiously, the consequences listed below can result:

Loss of Funding. FEMA may be prevented from approving funds for a project, or FEMA may be required to deobligate funds after the initiation of a project.

Delays. Approval and obligation of funding may be delayed while Special Considerations issues are resolved. For example, a funding decision may be delayed while FEMA waits for an applicant to submit insurance information.

Legal Action. Citizens, advocacy groups, and others can file lawsuits to stop projects funded by FEMA.

Loss of Opportunity. Hazard mitigation measures typically are most effective when incorporated in the initial repair or replacement of the damaged facility. It is critical to identify Special Considerations issues early to capitalize on the opportunity.

Negative Publicity. All of the above create negative publicity for FEMA, the State, and the applicants.

Early identification and resolution of Special Considerations issues can prevent many of these effects.

The Special Considerations Process

Special Considerations are a factor in all phases of the recovery process, from the Preliminary Damage Assessment (PDA) through the completion of projects. Processing involves:

- collection of data;
- review of the data and coordination with the appropriate agencies; and
- documentation of the process and its results.

FEMA's objective is to resolve Special Considerations issues early and expeditiously, preventing the consequences described earlier. The PDA is the first step in identifying Special Considerations. PDA teams will collect Special Considerations information through observation and interviews with the local officials.

Once recovery operations are underway, the scoping process begins. This process includes:

- identification of potential issues;
- coordination with other agencies;

- establishment of procedures for addressing issues; and
- coordination among the PA Program staff to ensure that field personnel are aware of the issues and the procedures for addressing them.

Depending on the issues prevalent for a specific disaster, any or all of the following agencies or organizations may be consulted as part of this scoping process:

- State insurance commissioner's office;
- FEMA Hazard Mitigation Grants Program office (see the discussion of 404 Mitigation, on [page 98](#));
- State Historic Preservation Office; and
- USACE, U.S. Fish and Wildlife Service (USFWS), and other Federal agencies.

The scoping process should result in some means for addressing issues, such as a clearance letter or memorandum of understanding with the appropriate agency.

The interface between the PAC and the applicant is the most critical element of the Special Considerations process. The PAC has the opportunity to interact with the applicant on several occasions, beginning with the Kickoff Meeting. The PAC:

- brings potential issues to the applicant's attention;
- works with the applicant to identify issues and obtain information that can lead to resolution;
- alerts Project Officers to potential issues with large projects;
- identifies projects for which a review is required and assigns the appropriate Specialist; and
- ensures that the appropriate review is completed by a Specialist and documented in the applicant's Case Management File.

The applicant must ensure that Special Considerations are noted on *PWs* for small projects. Additionally, the applicant can expedite the grant processing and approval by obtaining any information needed to resolve these considerations as early as possible.

Floodplain Management

The objectives of floodplain management are to:

- avoid, to the extent possible, the long- and short-term adverse impacts associated with the occupancy and modification of floodplains; and
- to limit direct and indirect floodplain development wherever there is a practicable alternative site.

To accomplish these objectives, Executive Order (EO) 11988 requires Federal agencies to avoid the 100-year floodplain, unless there is no practicable alternative, or to mitigate the effect of potential flooding through such measures as elevating structures. Because many PA Program projects are located in floodplains, FEMA must monitor the approval of grants for compliance with these requirements. Specific floodplain management responsibilities are described in more detail below.

Flood Insurance Rate Maps

To meet its floodplain management responsibilities, FEMA must first determine if a project is located within a floodplain. For this purpose, FEMA uses the Flood Insurance Rate Maps (FIRMs) that are published to support the National Flood Insurance Program (NFIP). These maps, which are also used by community floodplain managers and the insurance industry, depict Special Flood Hazard Areas, which are areas subject to inundation by a 100-year flood (a flood having a 1 percent chance of occurrence in a given year). The maps also show 500-year

floodplains (areas subject to inundation by a flood having a 0.2 percent chance of occurrence in a given year), coastal high hazard areas, and Coastal Barrier Resources System units.

Floodplain Management Responsibilities

Federal floodplain management responsibilities are mandated by EO 11988 and EO 11990, and outlined in 44 CFR Part 9. 44 CFR Part 9 provides the following specific, 8-step process for conducting floodplain management reviews before approval of funding.

1. Determine the location and effect of the proposed action within a wetland or the 100-year floodplain.
2. Notify the public of the proposed action within a wetland or floodplain.
3. Identify and evaluate practicable alternatives, including alternative sites or actions outside the floodplain or wetland.
4. Identify the potential direct and indirect impacts associated with the proposed action.
5. Minimize potential adverse impacts of the proposed action.
6. Re-evaluate the proposed action and other practical alternatives based on steps 3, 4, and 5.
7. Inform the public of the final decision.
8. Implement the action.

This review is not required for projects where eligible damage is less than \$5,000. In addition, the review is not required for

Category A and B projects (emergency work), except for projects involving disposal of debris in Special Flood Hazard Areas.

For all other projects located within Special Flood Hazard Areas, FEMA must perform the review to determine if it is practicable to avoid restoration in the floodplain. If avoiding the floodplain is not practicable, FEMA must identify all effects to both the floodplain and to the facility and seek to minimize the adverse effects through mitigation (such as relocation or redesign).

Consideration of alternative sites is not required for projects over \$5,000 but less than \$25,000 that are located in Special Flood Hazard Areas. However, mitigation measures must be considered.

FEMA must perform floodplain management reviews for critical facilities located in any floodplain up to and including the 500-year floodplain. A critical facility is a structure that, if flooded, would present an immediate threat to life, public health, and safety. Critical facilities include hospitals, facilities that produce toxic materials, and emergency operations centers. FEMA may require mitigation of the hazard or relocation of a critical facility before agreeing to provide funding for restoration of the facility.

Insurance

In accordance with Section 312 of the Stafford Act, the PA Program cannot duplicate benefits, such as proceeds from an insurance policy. Therefore, FEMA is required to reduce the amount of assistance for eligible work by the amount of any actual or anticipated insurance proceeds available for that work. FEMA also must limit flood disaster assistance for insurable facilities in Special Flood Hazard Areas; Section 406(d) of the Stafford Act requires a reduction in assistance for such facilities if those facilities do not carry flood insurance or carry inadequate flood insurance ([see page 96](#)). Section 311 of the Stafford Act

requires an applicant to purchase and maintain insurance, where that insurance is reasonably available, as a condition for receiving disaster assistance. These criteria are discussed in more detail in the paragraphs that follow.

Applicants are required to provide all pertinent insurance information, policies, and statements of loss to FEMA as soon as possible. In addition, applicants must pursue payment under their insurance plans to maximize potential benefits or risk delays or loss of FEMA funding.

Items and facilities that typically are insured include:

- buildings;
- contents;
- equipment; and
- vehicles.

An applicant may have insurance coverage for other items, facilities, or types of work. It is critical that the applicant discuss all possible insurance coverages with the PAC.

General Property Insurance

FEMA uses the term “general property insurance” to describe all perils except for flood. This could include perils such as fire, wind, rain, and earthquakes. Coverage for these perils generally includes buildings, contents, personal property, and other items. Once the amount and availability of coverage have been determined, an appropriate reduction in eligible project costs can be made based on anticipated insurance proceeds. If an applicant has already received an insurance payment at the time of project approval, FEMA will review the settlement to determine if it is in accordance with the policy. FEMA may limit funding if the applicant’s policy provides coverage which should be pursued from the insurer.

The NFIP and Flood Insurance

Flood insurance is available through both the NFIP and private insurance companies. The extent of coverage available varies depending on the source of the insurance and factors such as exposure to flooding, location, and loss history due to flooding. When flood insurance is purchased from the NFIP, it is obtained separately for buildings and contents. A list of properties that are insurable under the NFIP is provided in 44 CFR Part 61. Examples of insurable properties include buildings and contents, building additions, and detached garages. Examples of properties that are not covered by the NFIP include vehicles, pumping stations that do not qualify as buildings, water treatment plants that are primarily below ground, boat docks, swimming pools, and items that are stored but not normally located in basements.

Section 406(d) of the Stafford Act mandates a special reduction in the amount of public assistance funding for a structure that is:

- insurable under the NFIP;
- located in a Special Flood Hazard Area, as shown on a FIRM; and
- damaged by floodwaters.

For insurable structures that do not have flood insurance or carry inadequate flood insurance, FEMA will reduce eligible project costs by the lesser of:

- the maximum amount of insurance proceeds that could have been obtained from a standard NFIP flood insurance policy; or
- the value of the structure at the time of the disaster.

44 CFR Part 59.2 states that Federal financial assistance with respect to insurable buildings within an identified Special Flood Hazard Area shall not be provided in a sanctioned or non-

participating community. The requirement to reduce eligible costs is still enforced even if flood insurance is not available because the community is sanctioned or does not participate in the NFIP. There may be a limited exemption from this requirement for eligible PNP facilities when a community is sanctioned or not participating in the NFIP.

If flood insurance policies contain provisions for clean-up, debris removal, and demolition, FEMA must deduct proceeds for these activities from PA Program grants. While insurance policies typically do not pay for voluntary hazard mitigation items, they often cover upgrades necessary to comply with current codes and standards.

Eligible Costs for Insurable Facilities – All Disasters

Except in cases involving flood insurance reductions, any eligible work not covered by an insurance policy (that is, an uninsured loss) may be eligible for PA grant funding. The eligibility of these items is determined only after a review of the insurance policy and settlement by a Specialist. Generally, eligible uninsured losses may include the following items:

- deductible;
- depreciation; and
- costs in excess of an insurance policy's limits.

Insurance Purchase Requirements – All Disasters

As a condition for receiving public assistance for a facility, an applicant must obtain and maintain insurance to cover that facility for the hazard that caused the damage. Such coverage must, at a minimum, be in the amount of the estimated eligible project costs for that structure prior to any reduction. If the requirement to purchase insurance is not met, FEMA will not provide assistance for damage sustained in the current disaster. If the applicant

does not maintain insurance, FEMA will not provide any assistance for that facility in future disasters. An applicant is exempt from this requirement for:

- projects where the eligible damage is less than \$5,000; or
- facilities for which, in the determination of the State insurance commissioner, insurance is not reasonably available, adequate, and necessary. (This exemption does not apply to facilities insurable under the NFIP because insurance is both available and reasonable.)

The commitment by the applicant to purchase and maintain insurance must be documented and submitted to FEMA before project approval.

Hazard Mitigation

Hazard mitigation is defined as cost-effective action taken to prevent or reduce the threat of future damage to a facility. The applicant, FEMA, or the State may recommend that hazard mitigation measures be included in a *PW*. In some cases, FEMA may require that such actions be taken as part of a project. The costs of eligible hazard mitigation actions will be included in the overall funding of a project.

Difference Between Section 404 and Section 406 Hazard Mitigation Measures

The Stafford Act provides for two types of funding for hazard mitigation measures: Section 404 mitigation and Section 406 mitigation. The differences between these provisions are described in the table on [page 99](#).

Section 404 hazard mitigation does not fall under the purview of the PA Program. Nevertheless, it is important to understand the

404 Mitigation	406 Mitigation
Separate program run by the State	Implemented through the PA Program
Structural measures and non-structural measures (such as planning, property acquisition, warning systems)	Structural measures
Throughout the State	Must apply to the damaged element of the facility
Program funds capped at 15% of total disaster funds spent in the State	No program-wide limits on funds

differences between the two programs. The following discussion pertains solely to Section 406 hazard mitigation. For more information on Section 404 hazard mitigation, local officials should contact the PAC, appropriate DFO staff, or the State.

Section 406 Hazard Mitigation

It is important to note that Section 406 hazard mitigation measures consist of work that is above and beyond the work required to return the damaged facility to its pre-disaster design. Upgrades required to meet current codes and standards, however, are not considered hazard mitigation measures for purposes of the PA Program and have different eligibility criteria. Also note that, under the PA Program, these measures can only be applied to the damaged element of a facility. This is particularly important when conducting repairs to a portion of a system. For example:

If floodwaters inundate a sanitary sewer, blocking manholes with sediment and damaging the manholes, cost-effective mitigation to prevent blockage of the

damaged manholes in future events may be eligible. However, work to improve any undamaged manholes that are part of the system is not eligible.

For hazard mitigation measures to be approved, the measures must be reviewed by FEMA staff to ensure eligibility, technical feasibility, environmental and historical compliance, and cost effectiveness. The considerations listed below may affect the determination of cost effectiveness.

- Hazard mitigation measures may amount to up to 15 percent of the total eligible cost of the eligible repair work on a particular project.
- Certain mitigation measures may be determined to be cost-effective as long as the mitigation measure does not exceed the cost of the eligible repair work on the project. (These measures are identified in Response and Recovery Policy Number 9526.1 dated August 13, 1998 and excerpted below.)
- For measures that exceed the costs of eligible repair work, the applicant must demonstrate through an acceptable benefit/cost analysis that the measure is cost effective.

The following list includes examples of Section 406 mitigation measures. The applicant, the State, or FEMA may propose such measures. In addition, FEMA may require mitigation measures as part of an approved project to ensure compliance with applicable laws, regulations, or policies.

- Relocation of facilities from hazardous locations:
 - Roads and bridges
 - Utilities
 - Buildings
- Slope stabilization to protect facilities:
 - Placement of riprap

- Installation of cribbing or retaining walls
- Installation of soil retention blankets
- Protection from high winds:
 - Installation of shutters to protect windows
 - Installation of hurricane clips
 - Strengthening anchoring and connections of roof-mounted equipment
- Floodproofing of buildings:
 - Use of flood-resistant materials
 - Elevation of mechanical equipment and utilities
 - Elevation of buildings
- Flood protection of bridges and culverts:
 - Use clear spans instead of multiple spans
 - Installation of cut-off walls or headwalls on culverts
 - Installation of riprap
- Seismic protection:
 - Bracing of overhead pipes and electrical lines
 - Anchoring non-structural elements such as parapets and veneers
 - Bracing interior walls and partitions
- Protection of utilities:
 - Use of disaster-resistant materials for power poles
 - Anchoring fuel tanks to prevent movement
 - Elevation of equipment, control panels, and electrical service to prevent flood damage

Other Federal Laws and Regulations

When providing funds under the PA Program, FEMA must consider a range of Federal laws and regulations that apply to the use of Federal funds. These laws and regulations generally require the funding agency to ensure compliance. The size and type of project generally determine the level of review that must be performed. Some of these laws and regulations and the means through which FEMA ensures that the PA Program complies with them are discussed below.

National Environmental Policy Act

The National Environmental Policy Act (NEPA) requires every Federal agency to follow a specific planning process to ensure that agency decision-makers and local governments have considered, and the general public is fully informed about, the environmental consequences of a Federal action. This review and consultation process is used to evaluate the impact a project and its alternatives may have on the environment. The process must be completed prior to obligating funds and beginning work. FEMA's regulations regarding NEPA can be found in 44 CFR Part 10.

NEPA does not require that FEMA limit the impact of public assistance projects on the environment; nor does it require FEMA to fund only the alternative that has the least environmental impact. However, it does require that the decision to fund a project be made in an informed manner and involve the relevant stakeholders.

The review process required by NEPA, where applicable, is usually the vehicle through which FEMA addresses other environmental laws and regulations.

Statutory Exclusions. FEMA is provided with statutory exclusions under Section 316 of the Stafford Act. These exclusions exempt certain actions from the NEPA review process and generally include:

- debris removal, including clearance of roads and demolition of unsafe structures;
- emergency protective measures, such as the construction of temporary bridges and other activities necessary to reduce immediate threats to life, property, and public health and safety; and
- repair or restoration projects that do not affect the location, footprint, function, and size of the original facility.

It should be noted, however, that compliance with other individual laws, such as the Endangered Species Act, the National Historic Preservation Act, and the Clean Water Act, is still required, even when a project is excluded from NEPA review.

If an action is not statutorily excluded, the appropriate level of NEPA review must be determined. These levels are described in the following paragraphs.

Categorical Exclusions. Categorical exclusions include actions that, through experience, FEMA has found typically will have little or no environmental impact. Categorical exclusions are defined in 44 CFR 10.8(d). Examples include minor improvements or minor hazard mitigation measures at existing facilities, such as placing riprap at a culvert outlet to control erosion. If there are unresolved extraordinary circumstances, such as the presence of protected natural or cultural resources, the proposed action cannot be categorically excluded, and an Environmental Assessment would be required.

Environmental Assessments and Impact Statements.

The next two levels of NEPA review are an Environmental Assessment and an Environmental Impact Statement.

An Environmental Assessment is defined as a concise public document that serves to provide sufficient evidence and analysis regarding the significance of the environmental impacts of the proposed action. This assessment includes alternatives to aid in decision making and concludes with one of two findings: either a Finding of No Significant Impact or a Notice of Intent to prepare an Environmental Impact Statement.

An Environmental Impact Statement is required when significant environmental impacts are anticipated. It is a detailed analysis and evaluation of all the impacts of the proposed action and all reasonable alternatives, and is required when significant environmental impacts are anticipated. This document usually provides more detailed and rigorous analyses than the Environmental Assessment and provides for formal public involvement. The Environmental Impact Statement concludes with a Record of Decision that provides an explanation of the reasons for selecting a particular action.

Clean Water Act

Under Section 404 of the Clean Water Act, the USACE is responsible for issuing permits for the discharge of dredged materials or fill into the waters of the United States. Under this portion of the Clean Water Act, the applicant must obtain a permit in any situation where dredging or filling is a component of the project.

Wetlands are considered part of the waters of the United States and are subject to the provisions of the Clean Water Act. Some wetlands, such as marshes and riverine wetlands, are easy to recognize. Other sites, such as forested wetlands and agricultural drainage ditches, are more difficult to identify, and some areas that are considered wetlands may not actually be wet for much of the year.

Facilities and projects that may involve the Clean Water Act include:

- bridges, culverts, or outfall structures;
- levees;
- irrigation works;
- channel alignment and stream bank erosion control;
- debris removal in streams;
- shore protective measures;
- projects involving the placement of fill, such as relocation of roads and buildings; and
- construction of water and wastewater treatment plants.

Clean Air Act

Air quality may be affected by projects that are typically funded under the PA Program. Examples include:

- debris disposal through methods such as burning;
- collection and disposal of appliances that contain chloro-fluorocarbons;
- the demolition of damaged structures, which can release dust or harmful substances, such as asbestos, into the air; and
- projects that involve converting a mechanical or electrical system to a system that relies on combustion.

Compliance with the requirements is a condition of grant approval.

Coastal Barrier Resources Act

The Coastal Barrier Resources Act (CBRA) restricts Federal expenditures and financial assistance that encourage development

of coastal barriers so that damage to property, fish, wildlife, and other natural resources associated with the coastal barrier is minimized. Coastal barriers are located along the Atlantic and Gulf coasts and along the Great Lakes. They are identified on FIRMs as Coastal Barrier Resources System (CBRS) units.

Debris removal and emergency protective measures in designated CBRS units may be eligible for public assistance provided the actions eliminate the immediate threat to lives, public health and safety and protect improved property. Advanced consultation with the USFWS is not required before approval of emergency measures.

However, FEMA must consult with the USFWS to allow the USFWS the opportunity to provide written comments before permanent work funding is approved. The following types of publicly owned facilities may be eligible for permanent work funding:

- essential links in a larger system;
- improvements to an existing channel;
- repair of existing energy facilities that are functionally dependent on a coastal location; and
- other existing roads, structures, or facilities that are consistent with the purposes of CBRA;

Certain PNP facilities that meet the restrictions of CBRA and the PA Program may be eligible for assistance. Examples include electric or gas utilities or educational facilities used for scientific research.

Improved projects that expand a facility are not eligible in CBRS units except in a few limited cases. Alternate projects are not eligible.

An existing facility is defined as a publicly owned or operated facility on which the start of construction took place on or before

October 18, 1982. If a facility has been substantially improved or expanded since October 18, 1982, it is not an existing facility. If a unit was added to CBRS at a later date, that date may be substituted for the October 18, 1982, date.

Resource Conservation and Recovery Act

Although debris removal is statutorily exempted from NEPA, it is nonetheless subject to other laws, such as the Resource Conservation and Recovery Act, which requires safe disposal of waste materials, promotes the recycling of waste materials, and encourages cooperation with local agencies. The act applies to disposal of both storm-generated debris and demolition debris and is of particular concern when hazardous materials may be present.

Endangered Species Act

This legislation prohibits Federal actions that cause unnecessary harm to species listed as threatened or endangered the destruction or adverse modification of the habitat for these species. Endangered species include mammals, fish, birds, reptiles, and amphibians, as well as plants and insects.

If a project involves the known habitat of a threatened or endangered species, FEMA must consult with the USFWS and the National Marine Fisheries Service before approving funding for that project. Compliance issues may arise with projects involving undisturbed sites, such as relocations, but could also arise with relatively minor actions. For example:

If a culvert replacement must be performed on a stream that serves as the habitat of an endangered fish species, the construction could adversely affect the life cycle of that fish. The presence of the fish would not necessarily prevent the replacement but may necessitate certain constraints, such as accomplishing the work outside of the breeding season.

There are over 900 species currently listed as threatened or endangered. Therefore, it is important to consult with the USFWS to determine which species inhabit the project areas. In some cases, FEMA may establish a memorandum of understanding with the USFWS at the beginning of the disaster recovery process to address projects in areas known to have endangered species.

National Historic Preservation Act

The National Historic Preservation Act (NHPA) requires a Federal agency to consider the effects of its projects on any district, site, building, structure, or object that is included in or eligible for inclusion in the National Register of Historic Places. The agency funding the undertaking is required to afford the Advisory Council on Historic Preservation a reasonable opportunity to comment regarding that undertaking. In practice, the council rarely comments on individual Federal undertakings; it does, however, monitor the overall performance of Federal agencies in their compliance with NHPA.

Historic properties include districts, buildings, structures, objects, landscapes, archaeological sites, and traditional cultural properties that are included in, or eligible for inclusion in, the National Register of Historic Places. These properties are not just old buildings or well-known historic sites, but places important in local, State, or national history. Facilities as diverse as bridges and water treatment plants may be considered historic.

The National Register of Historic Places is a list of recognized historic properties. However, this list is not complete, and States may have additional properties with historic significance.

FEMA's Historic Preservation Program. Many public assistance projects have the potential to affect historic properties. These projects include:

- repair and restoration of historic structures;

- demolition or removal of historic structures;
- repair, restoration, and demolition projects in historic districts; and
- improved, alternate, or relocated projects that affect undisturbed areas that may contain archeological sites or other historic properties.

Under NHPA, FEMA must:

- identify historic properties;
- evaluate the effects of PA Program projects on historic properties;
- consult with the State Historic Preservation Office, the Advisory Council on Historic Preservation, and other interested parties, such as Native American tribes; and
- obligate funding only after completing the historic review process.

Through the use of programmatic agreements, FEMA has delegated the identification and evaluation tasks to State Historic Preservation Offices in many States.

Coastal Zone Management Act

If a proposed project is located in an area covered by a coastal zone management plan, it must comply with the requirements of that plan.

Farmland Protection Policy Act

If a proposed project causes irreversible conversion of farmland to non-agricultural use, the lost acreage must be evaluated using NRCS procedures.

Fish and Wildlife Coordination Act

If a proposed project will destroy wildlife habitat or modify a natural stream or body of water, this act requires an evaluation of that action on fish and wildlife. NEPA, when required, addresses these issues.

Wild and Scenic Rivers Act

If a proposed project is located on a river designated as wild and scenic, it must be reviewed for compliance with this law.

Executive Orders

In addition to the laws described above, several EOs issued by the President also affect PA Program projects. The EOs that most frequently affect the PA Program are described below.

EO 11988. Requires Federal agencies to undertake certain responsibilities for floodplain management. FEMA's procedures for complying with this EO are outlined in 44 CFR Part 9, and are described on [page 93](#) of this guide.

EO 11990. Outlines the protection of wetlands and requires a planning process that considers alternatives and evaluates impacts to wetlands. The process for complying with this EO is similar to that for complying with EO 11988 ([see page 93](#)) and is outlined in 44 CFR Part 9.

EO 12699. Requires that Federally assisted or regulated construction of new buildings must use appropriate seismic design and construction standards and practices. This EO applies to construction of new buildings for alternate or improved projects, the replacement of seriously damaged or destroyed buildings, and new additions to existing structures.

EO 12898. Requires Federal agencies to evaluate actions for disproportionately high and adverse effects on minority or low-income populations and to find ways to avoid or minimize these impacts where possible. It does not typically apply to in-kind repair or replacement of facilities under the PA Program. However, it may affect funding for improved, alternate, and relocated projects and certain hazard mitigation measures. Field personnel should identify any neighborhoods or communities with minority populations or low-income populations in the vicinity of these types of projects.

CHAPTER 5

PROJECT MANAGEMENT

Project management begins when a disaster occurs and does not end until an applicant has received final payment for the project. Good project management ensures successful recovery from the disaster, expedited payment of funds, and more efficient close-outs of PA Program grants.

Record Keeping

It is critical that the applicant establish and maintain accurate records of events and expenditures related to disaster recovery work. The information required for documentation describes the “who, what, when, where, why, and how much” for each item of disaster recovery work. The applicant should have a financial and record keeping system in place that can be used to track these elements. The importance of maintaining a complete and accurate set of records for each project cannot be over-emphasized. Good documentation facilitates the project formulation, validation, approval, and funding processes.

All of the documentation pertaining to a project should be filed with the corresponding *PW* and maintained by the applicant as the permanent record of the project. These records become the basis for verification of the accuracy of project cost estimates during validation of small projects, reconciliation of costs for large projects, and audits.

Applicants should begin the record keeping process before a disaster is declared by the President. To ensure that work performed both before and after a disaster declaration is well documented, potential applicants should:

- designate a person to coordinate the compilation and filing of records;

- establish a file for each site where work has been or will be performed; and
- maintain accurate disbursement and accounting records to document the work performed and the costs incurred.

The Federal Office of Management and Budget requires grant recipients to maintain financial and program records on file for three years following final payment. Records of grant recipients may be subject to the provisions of the Single Audit Act, as described on [page 117](#) of this guide. Applicants may refer to the Applicant Handbook, FEMA 323, for additional information regarding record-keeping.

Time Limits

There are time limits established for the completion of eligible work. These are set by regulation and are measured from the declaration date of the major disaster or emergency. The initial deadlines are established according to the type of work as shown in the following table:

Completion Deadlines	
Type of Work	Months
Debris Clearance	6
Emergency Work	6
Permanent Work	18

The State may grant extensions of the above deadlines in situations of extenuating circumstances. For debris clearance and emergency protective measures, an additional six months may be granted. For permanent restoration work, an additional 30 months may be granted. Requests by applicants for time extensions should include identification of the project by *PW* number, the dates and provisions

of any previous extensions granted for the particular project, a detailed justification of the delay, and a projected completion date. The justification should be based on extenuating circumstances or unusual project requirements beyond the control of the applicant. FEMA may review the State's actions on time extensions on a periodic basis to ensure compliance with the regulations.

If an applicant requests a time extension beyond the limit of the State's authority, the State must submit the request to the RD for approval. Information to be contained in the request is the same as in a request submitted for State approval. The RD will make a determination as to whether some or all of the requested extension should be granted and will inform the State in writing. The RD has authority to grant extensions appropriate to the situation. The RD may impose requirements upon the State to ensure that the project will be completed within the approved time limit.

The applicant will be reimbursed only for those costs incurred up to the latest approved completion date for a particular project. However, the project must still be completed for any funding to be eligible for that project.

Changes in Scope of Work and Costs

During the performance of work on a project, the applicant may discover hidden damage, additional work that is necessary to properly complete the project, or that certain costs are higher than those used to make the original estimate for the *PW*. Delays in the work schedule also may increase costs.

For large projects, when a change in scope or a need for additional funding is discovered, the applicant should notify the State as soon as possible. The assumption should not be made that such costs can be reported at the end of the project and that the additional funds will be approved automatically. The request should contain

justification for the eligibility of the additional work or costs. If additional damage to the facility is involved, it may be necessary to show how that damage is disaster-related. The State will forward the request to FEMA with a written recommendation. To determine eligibility, FEMA and the State, in cooperation with the local representatives, may conduct a site visit. The RD will render a decision and notify the State either with an amended *PW* for additional funding or a written denial of the request.

Small projects are handled differently. Cost overruns are not handled on a project-by-project basis; rather, the applicant may request supplemental funding for a net cost overrun on all small projects by submitting an appeal through the State to FEMA. An appeal should be submitted only when the total costs for all small projects significantly exceed the total cost approved for all small projects. The appeal must be submitted within 60 days of the completion of all of that applicant's small projects. The appeal must include documentation of actual costs of all of the projects, including projects with underruns as well as those with overruns.

Except when an appeal is to be submitted, cost documentation for small projects does not need to be submitted to FEMA. The State need only certify that all work was completed in accordance with the approved *PWs*.

Progress Reports

Progress reports are critical to ensuring that FEMA and the State have up-to-date information on PA Program grants. Reporting requirements for the PA Program generally concentrate on large projects. Recipients of assistance should check with their State to determine the particular reporting requirements.

The State will submit reports quarterly to the RD for large projects for which a final payment has not been made. The date of the first report will be determined jointly by the State and the DRM,

depending on the circumstances at the time. The progress report will describe:

- the status of the project, such as “in design”, or “under construction”;
- time extensions granted, if any;
- a projected completion date; and
- any problems or circumstances that could delay the project or result in noncompliance with the conditions of the FEMA approval.

As final payment is made on each large project, the project may be dropped from the report.

The requirements for small projects vary depending upon the practices of each State.

FEMA has no reporting requirements for applicants, but the State is expected to impose some reporting requirements on applicants so that it can prepare quarterly reports. The format in which the applicants submit project reports to the State will be determined by the State.

Audits

Public assistance grant recipients are required to comply with the provisions set forth under the Single Audit Act of 1984 (Public Law 98-502), as amended in 1996. The act requires grant recipients expending \$300,000 or more in Federal funds in a fiscal year to perform a single audit.

Even though a single audit must be performed, grant recipients also are subject to additional audits by the FEMA Office of the Inspector General and State auditors for items not covered by the single audit. Specific documentation and procedures are based on the

requirements of the Federal Office of Management and Budget whereby grant recipients must maintain financial and program records for three years following final payment.

Typically, applicants will be informed of audit requirements during the Applicants' Briefing. Any questions after the briefing regarding the single audit, or audits in general, should be directed to the appropriate State official or FEMA's Office of the Inspector General in Washington, D.C.

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