

DEPARTMENT OF HOMELAND SECURITY

ASSISTANCE LISTING 97.036 DISASTER GRANTS – PUBLIC ASSISTANCE (PRESIDENTIALLY DECLARED DISASTERS)

I. PROGRAM OBJECTIVES

The mission of the Federal Emergency Management Agency's (FEMA) Public Assistance (PA) grant program is to provide assistance to state, tribal, territorial, and local governments (SLTT), and certain types of private nonprofit (PNP) organizations so that communities can quickly respond to and recover from major disasters or emergencies declared by the president.

II. PROGRAM PROCEDURES

A. Overview

Following a presidential declaration of a major disaster or an emergency, the Federal Emergency Management Agency (FEMA), Department of Homeland Security (DHS), awards grants to assist state, local, tribal, and territorial (SLTT) governments and certain PNP entities to respond to and recover from disasters. Specifically, through the PA program, FEMA provides supplemental federal disaster grants assistance for debris removal, emergency protective measures, and the restoration of disaster-damaged, publicly owned facilities and the facilities of certain PNP organizations. The PA program also encourages protection of these damaged facilities from future events by providing assistance for hazard mitigation measures during the recovery process.

The PA program is based on a partnership with the recipient (state, tribal, or territorial government), the subrecipient (local government or PNP) and FEMA. FEMA is responsible for managing the program, approving grants, and providing technical assistance to the SLTT and subrecipients. The state, in most cases, acts as the recipient for the PA program and is responsible for providing technical advice and assistance to eligible subrecipients, providing state support for damage survey activities, ensuring that all potential applicants are aware of funding assistance available, and submitting documents necessary for grant awards (44 CFR sections 206.200 through 206.349) (an Indian tribal and territorial government may also be a recipient). The subrecipient requests assistance, identifies the damaged facilities, provides information to support the request, maintains accurate documentation, and performs necessary work (a recipient can also be a subrecipient).

Performance Metrics

The Public Assistance Division currently uses the following measures: accuracy, timeliness, efficiency, and effectiveness.

Accurate:

Project Worksheets processed without revision before obligation
Projects Worksheets processed without revision after obligation

Timely:

Timeliness from Request for Public Assistance (RPA) Approval to Award Funds
Completion of Field Work within 180 days
Projects Completed
Projects Closed

Efficient:

Reduce PA program travel costs for field operations.
Reduce Expenditures on PA Operational staff Salary and Benefits
Reduce Technical Assistance Contract (TAC) costs

Effective:**Public Assistance Terms and Definitions**

* For a complete list of terms and definitions please refer to the most recent version of the Public Assistance Program and Policy Guide (PAPPG) available here:
<https://www.fema.gov/media-library/assets/documents/111781>.

Applicant – A nonfederal entity submitting an application for assistance under the recipient’s federal award.

Award (Federal) – The financial assistance that a nonfederal entity receives either directly from a federal awarding agency or indirectly from a pass-through entity; or the cost-reimbursement contract under the Federal Acquisition Regulation that a nonfederal entity receives directly from a federal awarding agency or indirectly from a pass-through entity.

Direct Administrative Cost (DAC) – A cost incurred that can be identified separately and assigned to a specific project.

Emergency Work – Work that must be done immediately to save lives, protect improved property, protect public health and safety, or avert or lessen the threat of a major disaster.

Federal Share – The portion of the total project costs paid by federal funds.

Indian Tribal Government – Any federally recognized governing body of an Indian or Alaska Native tribe, band, nation, pueblo, village, or community that the secretary of the Interior acknowledges to exist as an Indian tribe under the Federally Recognized Tribe List Act of 1994, Title 25 of the US Code (USC). This does not include Alaska Native corporations, the ownership of which is vested in private individuals.

Large Project – A project for which the final obligated (federal and nonfederal) amount is equal to or *greater* than the annually adjusted cost threshold for small project grants.

Management Cost – Any indirect cost, administrative expense, and any other expense that a recipient or subrecipient reasonably incurs in administering and managing the PA award that is not directly chargeable to a specific project.

Permanent Work – Restorative work that must be performed through repairs or replacement to restore an eligible facility on the basis of its pre-disaster design and current applicable codes and standards.

Private Nonprofit (PNP) Organization – Any nongovernmental agency or entity that currently has an effective ruling letter from the US Internal Revenue Service, granting tax exemption under sections 501(c), (d), or (e) of the Internal Revenue Code of 1954, or satisfactory evidence from the state that the nonrevenue producing organization or entity is a nonprofit one organized or doing business under state law.

Project – A logical grouping of work required as a result of the declared major disaster or emergency.

Project Worksheet (PW) – A tool used by the applicant and FEMA to develop projects. The PW (FEMA Form 90-91) is the primary form used to document the location, damage description and dimensions, scope of work, and cost estimate for each project.

Recipient – A nonfederal entity that receives a federal award directly from a federal awarding agency to carry out an activity under a federal program.

Small Project – A project for which the final obligated (federal and nonfederal) amount is less than the annually adjusted cost threshold for small project grants.

State – Any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, US Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

Subaward – An award provided by a pass-through entity to a subrecipient for the Subrecipient to carry out part of a federal award received by the pass-through entity. It does not include payments to a contractor or payments to an individual that is a beneficiary of a federal program.

Subrecipient – A nonfederal entity that receives a subaward from a pass-through entity to carry out part of a federal program. It does not include an individual that is a beneficiary of such program. A subrecipient may also be a recipient of other federal awards directly from a federal awarding agency.

B. Funding

For more information on funding please refer to the most recent version of the PAPPG available here: www.fema.gov/assistance/public/policy-guidance-fact-sheets.

Through the PA program, FEMA provides:

- Grant funding for emergency protective measures and debris removal (Emergency Work)
- Grant funding for permanent restoration of damaged facilities, including cost-effective hazard mitigation to protect the facilities from future damage (Permanent Work)

Project Funding:

The PA PW is the form FEMA uses to document the details of the applicant's project and costs claimed. The PW contains the information necessary for authorized FEMA personnel to review and approve the scope of work (SOW) and costs. If approved, FEMA obligates the federal share of the eligible 44 CFR section 206.204(d)(2) project cost to the recipient. Once obligated, the PW constitutes the official record of the approved scope of work for the project.

Project Thresholds:

FEMA establishes a minimum project threshold for each federal fiscal year. The threshold applies to incidents declared within that fiscal year and is based on the Consumer Price Index. FEMA establishes a dollar threshold each federal fiscal year for the implementation of Simplified Procedures under Section 422 of the Stafford Act. This threshold defines a project as large or small. FEMA categorizes projects as large or small based on the final approved amount of eligible costs after any cost adjustments, including insurance reductions:

- A Large Project is a PW with a cost equal to or greater than the threshold.
- A Small Project is a PW with a cost below the threshold.

For large projects that are not capped projects (projects for which funding is capped at a certain amount), FEMA adjusts any estimated costs to the actual incurred amount so that the final approved funding is based on actual cost. For small projects, FEMA does not adjust estimated costs to the actual incurred amount.

*For more information on large projects and small projects refer to the most recent version of the PAPPG available here: <https://www.fema.gov/media-library/assets/documents/111781>.

Project Types:

Capped Projects. FEMA provides three options that provide flexibility for the applicant to use PA funding differently than restoring the pre-disaster design and function of the facility. For these options, FEMA caps the amount of PA funding based on the estimated amount to restore the damaged facility to its pre-disaster design and function, including applicable and federally required codes and standards.

Improved Project: A project that restores the pre-disaster function, and at least the same capacity, of the damaged facility and incorporates improvements or changes to its pre-disaster design not required by eligible codes or standards.

Alternate Projects: The use of funds toward a project that does not restore the pre-disaster function of the damaged facility. If the applicant determines the public welfare would not be best served by restoring a damaged public facility or its function, it may use the toward a different facility (or facilities) that benefit the same community.

Alternative Procedures: The Sandy Recovery Improvement Act of 2013 (Pub. L. No. 113-2) amended Title IV of the Stafford Act (42 USC 5121 et seq.) (Stafford Act) by adding Section 428, which authorizes FEMA to implement alternative procedures for the PA program, under sections 403(a)(3)(A), 406, 407, and 502(a)(5) of the Stafford Act, through a pilot program.

Alternative Procedures Pilot Program for Permanent Work Project (Large Projects only): authorizes FEMA to award PA funding based on fixed estimates. Additionally, applicants gain the benefits of the following using the Pilot Program:

- Use of funds across all of an applicant’s pilot projects
- Not required to rebuild the facilities back to what existed prior to the disaster
- Not required to track costs to specific work items
- Not required to track costs to work to specific pilot projects since funds can be shared across all of its pilot projects
- Retention of excess funds for approved purposes
- Third party expert panel review for estimates with a federal cost share of \$5 million or great (FEMA requires this review for estimates that exceed \$25 million)
- Eligible for cost-effective hazard mitigation on replacement projects

Alternative Procedures Pilot Program for Debris Removal: This pilot is authorized for major disasters and emergencies declared on or after June 28, 2013, the sole exception is FEMA-4117-DR-OK, which was authorized previously by the president specifically for that major disaster declaration. FEMA extended this pilot program to June 28, 2019, to enable collection of additional data that will be used to evaluate the effectiveness of the alternative procedures and inform decisions as to which alternative procedures should be permanently incorporated into the PA program.

For major disasters and emergencies declared between June 28, 2013 and June 27, 2014, the debris removal alternative procedures, with the exception of reimbursement for

straight-time force account labor, are for large projects only. For major disasters and emergencies declared on or after June 28, 2014, all the debris removal alternative procedures can be applied to both small and large projects.

Accelerated Debris Removal–Increased Federal Cost Share (Sliding Scale) Procedure – Provides an increased federal cost share via a sliding scale to incentivize subrecipients to initiate and complete debris removal operations quickly after a disaster. Unless FEMA authorizes an extension (e.g., when unusual circumstances delay the start or completion of work), FEMA will limit the amount of time to complete debris removal activities to 180 days from the start of the incident. Direct federal assistance (DFA) is not available to subrecipients using this procedure. After analyzing the effectiveness of this procedure FEMA ended its use for all major disasters declared on or after June 28, 2018.

Debris Removal Completed (Days from Start of Incident Period)	Federal Cost Share
1–30	85%
31–90	80%
91–180	75%

Note: Federal dollars will **not** be provided for debris removal after 180 days unless FEMA authorizes an extension in writing.

Debris Management Plan Procedure – Provides a one-time 2 percent federal cost share increase for the first 90 days when a subrecipient has a FEMA-accepted Debris Management Plan and has prequalified one or more debris removal contractors before the declaration. After analyzing the effectiveness of this procedure, FEMA ended its use for any major disasters declared on or after June 28, 2019.

Straight-Time Force Account Labor Procedure – Provides reimbursement of base wages for a subrecipient’s own employees who perform or administer debris removal.

Recycling Revenue Procedure – Allows subrecipients to retain program income received from recycled debris if used for activities that will improve debris removal operations in the future. After analyzing the effectiveness of this procedure, FEMA ended its use for any major disasters declared on or after June 28, 2018.

Grants for Debris Removal on the Basis of Fixed Estimates – Allows for FEMA to make grants for debris removal on the basis of fixed estimates, and to allow subgrantees to use excess funds from those grants for approved purposes. FEMA is not implementing these procedures as part of the pilot. FEMA continues to work to improve debris estimating methodologies and will consider implementing these procedures in the future.

*For more information on Public Assistance Capped Grants, refer to the most recent version of the PAPPG available here: www.fema.gov/assistance/public/policy-guidance-fact-sheets.

Source of Governing Requirements

This program is authorized by 42 USC 5121 et seq. Program regulations issued by FEMA are codified at 44 CFR sections 206.200 through 206.349. The program is also responsible for complying with other regulatory requirements, such as those found in 2 CFR, insurance requirements, floodplain management requirements, and environmental and historic preservation requirements.

Availability of Other Program Information

Additional program information is available on the FEMA website at: www.fema.gov/assistance/public.

The Public Assistance Program and Policy Guide (PAPPG) available here: www.fema.gov/assistance/public/policy-guidance-fact-sheets.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, “Matrix of Compliance Requirements”), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a “Y” in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. **When a compliance requirement is shown in the summary below as “N,” it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an “N.” See the Safe Harbor Status discussion in Part 1 for additional information.**

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment/Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement Suspension & Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	N	N	Y	Y	N	N	Y	Y	Y

B. Allowable Costs/Cost Principles

FEMA evaluates the eligibility of all costs claimed by the applicant. Not all costs incurred as a result of the incident are eligible. Cost must be:

- Directly tied to the performance of eligible work;
- Adequately documented (2 CFR section 200.403(g));
- Reduced by all applicable credits, such as insurance proceeds and salvage values (Stafford Act section 312, 42 USC section 5155, and 2 CFR section 200.406);
- Authorized and not prohibited under federal, state, territorial, tribal, or local government laws or regulations;
- Consistent with applicant’s internal policies, regulations, and procedures that apply uniformly to both federal awards and other activities of the applicant; and
- Necessary and reasonable to accomplish the work properly and efficiently (2 CFR section 200.403).

1. *Applicant (Force Account) Labor*

FEMA refers to the applicant’s personnel as “force account.” FEMA reimburses force account labor based on actual hourly rates plus the cost of the employee’s actual fringe benefits. FEMA calculates the fringe benefit cost based on a percentage of the hourly pay rate. Because certain items in a benefit package are not dependent on hours worked (e.g., health insurance), the percentage for overtime is usually different than the percentage for straight-time.

* For more information of Force Account Labor refer to the most recent version of the PAPPG available here: www.fema.gov/assistance/public/policy-guidance-fact-sheets.

2. *Applicant (Force Account) Equipment and Purchase Equipment*

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

There are instances when an applicant does not have sufficient equipment to effectively respond to an incident. If the applicant purchases equipment that it justifiably needs to respond effectively to the incident, FEMA provides PA funding for both the purchase price and either:

- The use of the equipment based on equipment rates (without the ownership and depreciation components); or

- The actual fuel and maintenance costs.

FEMA provides PA funding for force account equipment usage based on FEMA, state, territorial, tribal, or local equipment rates in accordance with the specific criteria.

* For more information On Applicant (Force Account) Equipment and Purchase Equipment refer to the most recent version of the PAPPG available here: www.fema.gov/assistance/public/policy-guidance-fact-sheets.

3. *Contracts*

FEMA reimburses costs incurred using three types of contract payment obligations: fixed-price, cost-reimbursement, and, to a limited extent, time and materials (T&M). The specific contract types related to each of these are described in FEMA's *Procurement Guidance for Recipients and Subrecipients Under 2 CFR Part 200 (Uniform Rules)*.

The applicant must include required provisions in all contracts awarded and maintain oversight to ensure that contractors perform according to the conditions and specifications of the contract and any purchase orders.

FEMA does not reimburse costs incurred under a cost plus a percentage of cost contract or a contract with a percentage of construction cost method.

* For more information on Contracts refer to the most recent version of the PAPPG available here: www.fema.gov/assistance/public/policy-guidance-fact-sheets.

4. *Mutual Aid*

When an applicant does not have sufficient resources to respond to an incident, it may request resources from another jurisdiction through a "mutual aid" agreement. FEMA refers to the entity requesting resources as the Requesting Entity. FEMA refers to the entity providing the requested resource as the Providing Entity.

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

* For more information on Mutual Aid refer to the most recent version of the PAPPG available here: www.fema.gov/assistance/public/policy-guidance-fact-sheets.

5. *Donated Resources*

Individuals and organizations often donate resources (equipment, supplies, materials, or labor) to assist with response activities. FEMA does not provide PA funding for donated resources; however, the applicant may use the value of donated resources to offset the nonfederal share of its eligible Emergency Work projects and Direct Federal Assistance.

* For more information on Donated Resources refer to the most recent version of the PAPPG available here: www.fema.gov/assistance/public/policy-guidance-fact-sheets.

6. *Section 324 Management Costs*

Section 1215 of the Disaster Recovery Reform Act Expands the definition of management costs to include both direct and indirect administrative expenses by the state, local, tribal, or territorial government. It also establishes the following rates for the PA program:

- Up to 12 percent of the total award amount with up to 7 percent for the recipient and 5 percent for the subrecipient.

* For more information refer to the *Public Assistance Management Cost (Interim) Policy*.

7. *Insurance Proceeds*

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

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

* For more information on Insurance Proceeds refer to the most recent version of the PAPPG available here: www.fema.gov/assistance/public/policy-guidance-fact-sheets.

G. Matching, Level of Effort, Earmarking

1. Matching

- a. Costs must be on a shared basis, as specified in the FEMA-State Agreement. In general, the minimum federal share is 75 percent of eligible costs (44 CFR section 206.65). The nonfederal share that is split between

the state and each subrecipient may vary. The accountability for meeting the matching requirement resides with the state and is determined at the time of project accounting as part of project closeout (i.e., the nonfederal share does not have to be met until the end of the project).

- b. There is no matching requirement for PA grants made to Louisiana, Mississippi, Florida, Alabama, and Texas in connection with hurricanes Katrina, Wilma, Dennis, and Rita (Title IV, Pub. L. No. 110-28).

2. Level of Effort

Not Applicable

3. Earmarking

- a. For major disaster or emergency declarations prior to November 13, 2007, the state makes funding available to subrecipients for their direct costs to request, obtain, and administer PA projects according to the following formula: (a) 3 percent of the subrecipient's first \$100,000 of net eligible project costs; (b) 2 percent of the subrecipient's next \$900,000 of such costs; (c) 1 percent of the subrecipient's next \$4 million of such costs; and (d) 0.5 percent of the subrecipient's net eligible costs over \$5 million (interim final rule, 44 CFR section 207.9(b)(2), effective November 13, 2007, 72 FR 57878, October 11, 2007).
- b. For major disaster or emergency declarations on or after November 13, 2007, the state makes management cost funding available to subrecipients, as prescribed in the state administrative plan, to administer PA projects (interim final rule, 44 CFR sections 206.207 and 206.228 and Part 207, effective November 13, 2007, 72 FR 57876 through 57878, October 11, 2007).

L. Reporting

1. Financial Reporting

- a. *SF-270, Request for Advance or Reimbursement* – Applicable only to those nonfederal entities who do not or are unable to utilize the Department of Health and Human Services, Payment Management System.
- b. *SF-271, Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable
- c. *SF-425, Federal Financial Report* – Applicable

2. Performance Reporting

Quarterly progress reports are due from recipients on all open large projects 30 days after the end of each calendar quarter.

3. Special Reporting

Not Applicable

4. Special Reporting for Federal Funding Accountability and Transparency Act

See Part 3.L for audit guidance.

N. Special Tests and Provisions

1. Project Accounting

Compliance Requirements For large projects, the state is required to make an accounting to FEMA of eligible costs. Similarly, the subrecipient must make an accounting to the state. In submitting the accounting, the entity is required to certify that reported costs were incurred in performance of eligible work, that the approved work was completed, that the project is in compliance with the provisions of the FEMA-State Agreement, all grant conditions were met, and that payments for that project were made in accordance with the applicable payment provisions. For improved and alternate projects, if the total cost of the projects does not equal or exceed the approved eligible costs, then the auditor should expect to see an adjustment to reduce eligible costs (44 CFR section 206.205).

Audit Objectives Determine whether ongoing and completed projects were accounted for in accordance with the required certification.

Suggested Audit Procedures

Projects not completed – Select a sample of ongoing large projects and ascertain if costs submitted for reimbursement were in compliance with the requirements for eligible work under the applicable PW. Testing should consider the differences in the requirements and approvals required of improved and alternate projects.

Completed projects – Select a sample of large projects completed during the audit period and ascertain if the entity’s files document the total costs as allowable costs and if the costs are for allowable activities under the applicable PW. This testing should consider the differences in the requirements and approvals required of improved and alternate projects.

IV. OTHER INFORMATION

Purpose: The purpose of this document is to provide a brief overview of the FEMA’s Public Assistance Program. For more in-depth information please refer to the Public Assistance

Program and Policy Guide (Version 4) found at www.fema.gov/assistance/public/policy-guidance-fact-sheets.

Nonfederal entities must record expenditures on the Schedule of Expenditures of Federal Awards (SEFA) when (1) FEMA has approved the nonfederal entity's PW, and (2) the nonfederal entity has incurred the eligible expenditures. Federal awards expended in years subsequent to the fiscal year in which the PW is approved are to be recorded on the nonfederal entity's SEFA in those subsequent years.

For example:

1. If FEMA approves the PW in the nonfederal entity's fiscal year 2014 and eligible expenditures are incurred in the nonfederal entity's fiscal year 2015, the nonfederal entity records the eligible expenditures in its fiscal year 2015 SEFA.
2. If the nonfederal entity incurs eligible expenditures in its fiscal year 2014 and FEMA approves the nonfederal entity's PW in the nonfederal entity's fiscal year 2015, the nonfederal entity records the eligible expenditures in its fiscal year 2015 SEFA with a footnote that discloses the amount included on the SEFA that was incurred in a prior year.