

CHAPTER 15

STATE NATURAL DISASTER ASSISTANCE ACT (NDAA) PROGRAM

Background:

The Natural Disaster Assistance Act (NDAA) is activated after:

- ◆ a local declaration of emergency,
- ◆ OES Director's Concurrence with a local declaration,
- ◆ Governor's Proclamation of a State Emergency, or
- ◆ a Presidential Declaration of a Major Disaster or Emergency.

Once the NDAA is activated, local government is eligible for certain types of assistance, depending upon the specific declaration or proclamation issued. This chapter outlines the types of assistance available and the application procedure for requesting that assistance.

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This chapter consists of three sections.

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☐ **1: DECLARATION OF A LOCAL EMERGENCY¹**

Level: There are three levels of declaration or proclamation of a disaster or emergency.

Level	Type of Declaration	Assistance Available
1	Director's Concurrence with a Local Declaration	for permanent restoration assistance
2	Governor's State of Emergency Proclamation	for disaster response and permanent restoration assistance
3	President's Declaration of a Major Disaster or Emergency	for matching fund assistance for cost sharing required under federal public assistance programs

NDAAs activated: The Natural Disaster Assistance Act is activated after a local declaration of emergency. Subsequently, the local government may request the Director of OES to concur in their declaration of a local emergency and to provide assistance under the California Natural Disaster Assistance Act (NDAAs).

Required step: To be eligible for assistance under NDAAs, a local agency must declare a local emergency within ten (10) days of the actual occurrence of a natural disaster and the declaration must be acceptable to the Director of the Governor's Office of Emergency Services ((Director's Concurrence), or the Governor must make a State of Emergency Proclamation.

Resolution: The local government must pass a resolution that indicates:

- ◆ the nature and date of the emergency, and
- ◆ the person designated to receive, process, and coordinate all aid.

Note: The resolution designating an authorized agent is usually separate from the resolution declaring a local emergency. For example, a county can declare and all eligible applicants within the county can apply for assistance but each applicant must submit an Authorized Agent Resolution.

Required: To assist the OES Director in evaluating the situation, and in making a decision on whether or not to concur in the local emergency, the following is required:

- ◆ Local Emergency Declaration, and
- ◆ Damage Assessment Report.

Eligible applicants: Applicants eligible to apply for state assistance are:

- ◆ county governments,
- ◆ city governments, and
- ◆ special districts within the area declared a local emergency by a county board of supervisors.

OES letter of concurrence: When a local emergency declaration is been found to be acceptable to the OES Director, OES forwards a letter of concurrence to the local agency:

- ◆ setting forth the beginning and ending dates of the disaster occurrence, and
- ◆ providing the necessary forms for filing and application.

Period of eligibility: Any damage occurring before or after the dates established for the disaster period will not be eligible for state assistance.

Filing deadline: All applications for assistance must be filed within 30 days from the date of the local emergency declaration with the Office of Emergency Services.

☐ **FUNDING FOR NDAAs PROGRAM**

Funding categories: The funding categories for the NDAAs, or California Public Assistance Program, are the same categories as those used in the FEMA public assistance program. The federal and state governments use the same work categories for funding and tracking disaster- or emergency-related project expenditures:

Description Error! Bookmark not defined.Cat egory	Description
Category A	Debris Removal
Category B	Emergency Protective Measures
Category C	Road System Repairs
Category D	Water Control Facilities
Category E	Buildings and Equipment
Category F	Public Utility Systems
Category G	Other (Parks, Recreational Facilities, etc.

Emergency work: This is defined as work undertaken to save lives, protect public health and safety, and to protect property. The two categories that fall into emergency work are:

Category A - Debris Removal, and
Category B - Emergency Protective Measures.

Cost share: NDAAs funding is implemented as a cost share to federal funding assistance once the President has declared a major disaster or emergency, or it may be the only funding available in the event of a Director's Concurrence with a Local Emergency Declaration or a State of Emergency Proclamation by the Governor.

Funding eligibility: Funding under NDAA varies depending upon whether there has been a local emergency declared or whether the Governor has proclaimed a state of emergency.

Note: There must be at least a Director's Concurrence with a Local Emergency Declaration for State funding to be made available to local jurisdictions under NDAA.

Table: The table below shows funding available with each type of declaration.

Type of declaration	Funding	Limitations
Local emergency with a Director's Concurrence	NDAA funding for a Director's Concurrence with a Local Emergency Declaration is limited to costs for permanent restorative work.	Emergency work or debris clearance are not covered in this case. If these types of assistance are needed, the local emergency must be elevated to a Governor's proclamation of state emergency.
Governor's proclamation of a state of emergency	Local jurisdictions become eligible for state funding for: emergency work, debris removal, and permanent restoration.	

Indirect costs: There is an administrative allowance for indirect costs. These include overhead, rent, and utilities. FEMA does not reimburse for these costs. Instead, FEMA pays an administrative allowance based upon a declining percentage of the total costs of the eligible work that is added to each approved DSR.

The declining percentage is dependent upon the accumulated dollar amount obligated for that applicant. For example, it is 3% for the first \$100,000 obligated, 2% for the next \$900,000 obligated, 1% for the next \$4,000,000 obligated, and 0.5% for accumulated costs over \$5,000,000.

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10% rate: NDAA allows a local agency to apply a flat 10% rate against eligible direct labor costs, excluding employee benefits, to develop a reimbursable indirect cost. To receive up to 40%, the agency must prepare an Indirect Cost Rate Proposal (ICRP), according to OMB Circular A-87. An NDAA applicant must have a current ICRP at the time of final inspection to recover any rate above the minimum 10% flat indirect cost rate.

Minimum amounts: State OES will no longer fund DSRs less than \$1000, or any other DSRs that FEMA declares ineligible. As of September 13, 1996, in a Presidential declared disaster, OES will only pay the State's portion of the non-federal share of costs deemed eligible for funding by FEMA (refer to attached memo from Richard Andrews, Director, regarding: State Funding for Public Assistance Projects, Attachment B).

The accumulative State share for an applicant has to total \$2,500 at a minimum before that applicant can receive any state funding.

What to file: There is no need for local government to apply for the state program separately if federal funding is requested.

If it is a state-only disaster, then the jurisdiction will have to file an application because state funding will be the only funding available.

• COST SHARE

Local share: :

- ◆ FEMA pays a minimum of 75% of the eligible disaster-related costs.
- ◆ State OES generally pays up to 75% of the remaining 25% (of the non-federal share).
- ◆ Local government is responsible for 25% of the non-federal share, or 6.5% of total eligible costs. However, this 6.5% can be less, depending upon the circumstances.

Federal share: NDAA funding is implemented as a cost share to federal funding assistance once the President has declared a major disaster or emergency.

The State will pay up to 100% of the 25% non-federal share where there is a legislative enactment indicating such intent (i.e., as with the 1989 Loma Prieta Earthquake, 1991 East Bay Fire, and 1994 Northridge Earthquake).

State agencies and private non-profits receive no funding under the NDAA.

☐ **WITHHOLD OR RETENTION**

Federal withhold: In general, OES withholds 25% of the federal share until final inspection for state agencies and private non-profits; 10% of the federal share for cities and counties. However, there are exceptions for reduced withholdings.

Local government can request a partial inspection to close out the project and receive the withhold.

State retention: There is 10% retention of the State share.

More information: For more specific information and forms to complete to apply for state assistance through the Natural Disaster Assistance Act (NDAA), refer to the Applicant's Briefing Packet for Local Governments and Special Districts available from the Disaster Assistance Division of the Office of Emergency Services.

☐ **2: ASSISTANCE AVAILABLE WITH A GOVERNOR'S PROCLAMATION OF A STATE OF EMERGENCY²**

State assistance available:

Under a State of Emergency Proclamation, the Governor has the authority to:

- ◆ expend budgeted or emergency funds;
- ◆ use state resources (i.e, California National Guard, California Conservation Corps, CCC); and
- ◆ direct all agencies to utilize and employ state personnel, equipment, and facilities to avert or alleviate actual or threatened disaster damages.

Mutual aid:

Master Mutual Aid Agreement allows local agencies to request voluntary, supplemental assistance. Mutual aid becomes mandatory under a Governor's State of Emergency proclamation.

NDAA assistance:

The Natural Disaster Assistance Act provides financial aid to local agencies to assist in the permanent restoration of public real property, other than facilities used solely for recreational purposes, when such real property has been damaged or destroyed by a natural disaster.

Definition:

"Natural disaster," as defined, means a fire, flood, storm, tidal wave, earthquake or other similar public calamity resulting from natural causes, which, due to the magnitude of the occurrence, warrants the declaration of a "Local Emergency" by the governing body of the county or city in which the disaster has occurred.

Amount of assistance:

The amount of state assistance which may be received by an eligible applicant is based on a formula in the law to compute the respective shares of the state and the local agency.

Factors:

The formula takes into consideration the following factors in determining amount of assistance:

- ◆ estimated cost of eligible work; and

- ◆ the local agency's revenues for the prior fiscal year, which is separated into two separate types of projects:
- ◆ Public Facilities Projects and
- ◆ Street and Highway Projects.

☐ EXAMPLES

State/federal assistance:

Following are some examples of state and federal assistance after a Governor's proclamation of a state emergency.

AGENCY	HOW TO REQUEST	REQUEST TO INCLUDE	LIMITATIONS
STATE ASSISTANCE			
California Conservation Corps	Direct requests for CCC resources through the OES Operational Area Emergency Operations Center (OA EOC) to the Regional Emergency Operations Center (REOC).	<p>In requesting CCC assistance through the OES, include the following information:</p> <p>Nature of problem and why resource needed Approximate number of personnel required, and Approximate duration of assignment</p> <p>State OES will provide a mission assignment number and information on crew availability.</p>	<p>Specialized equipment must be provided by requesting jurisdiction</p> <p>Crews work 40 hour week; overtime normally paid by the requesting jurisdiction</p> <p>When working beyond commute range, requesting jurisdiction normally requested to supply food and housing; and</p> <p>Requesting jurisdiction required to provide technical and logistical guidance, when necessary.</p>
California	Direct requests for	Mission Statement	

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AGENCY	HOW TO REQUEST	REQUEST TO INCLUDE	LIMITATIONS
National Guard	use of National Guard resources through the local area to the Operational Area to the REOC.	<p>(when, why, what) Operating conditions</p> <p>Point of contact (who)</p> <p>State OES will provide a mission assignment number to the CNG.</p> <p>The mission number goes to the state agency for tracking purposes. It is not a guarantee for cost reimbursement.</p>	
FEDERAL ASSISTANCE			
U.S. Army Corps of Engineers	Disaster assistance for public elementary and secondary schools. Request assistance through the SEMS procedure: resource request to the local area, operational area, REOC, State Operations Center, FEMA.		
Federal Highway Administration	Provides financial assistance for repair or reconstruction of highways on the Federal Aid System which have sustained serious damage as a result of a disaster, concurred with by the Administrator, Federal Highway Administration	Follow SEMS as above: local area, operational area, REOC, State Operations Center, FEMA.	<p>Permanent repair work should not be initiated until the Title 23 program implemented and specific projects approved.</p> <p>Program may also be implemented as part of a major disaster declaration.</p>

☐ 3: APPLICATION PROCEDURE FOR NDAA PROGRAM³

Application forms: In order to receive payment your organization must submit the following State Natural Disaster Assistance Act (NDAA) Program forms:

- ◆ Exhibit D (OES Form 96)
- ◆ Applicant Approval Form for Natural Disaster Assistance
- ◆ NDAA Form 3 - OES Form 125)
- ◆ Request for Advance of Funds State NDAA Program

Application procedure: The table below identifies the steps to be taken in applying for federal assistance under the Robert T. Stafford Act.

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1	Local government	File Project Application for assistance (NDAA Form 1) within 60 days of the date of the local declaration
		Application must include: List of Projects (Exhibit B) and a Resolution Designating an Authorized Representative (OES Form 130)
		Under a federal declaration, the NOI and Exhibit "B" serve as applications for the NDAA (National Disaster Assistance Act) Program.
2	FEMA/OES	Under 9/13/96 policy, when there is a federal declaration, no state DSR is prepared and NDAA only funds state portion of non-federal share of eligible federal DSRs.
3	OES	State DSRs are then reviewed and obligated. A state "supplement package" similar to the federal package will be transmitted to you by OES. Normally, the State share is 75% to 100% of the non-federal eligible share, depending upon the Federal/State Agreement for that disaster.

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Error! Bookmark not defined.STEP	WHO	ACTION TO BE TAKEN
		The subgrantee is responsible for 25% of the non-FEMA eligible share. State agencies and private non-profit organizations are responsible for the entire non-FEMA eligible share.
		Your state supplement package will include <ul style="list-style-type: none"> • Computer generated NDAA DSRs and backup • Exhibit "D" (Form OES 96) • Request for NDAA Advance (NDAA Form 3)
	Local government	Upon completion and submittal of the OES 96 and NDAA 3, you can receive an advance of up to 90% of the state share prior to the final inspection.

Project funding approval:

Site Rule: all sites must be surveyed within 60 days of the date of a local agency's application.

DSRs are approved for funding by the OES Public Assistance Officer (PAO).

DSRs are reviewed and approved by applicant representatives on-site prior to submittal to OES for PAO concurrence/approval and funding.

Complete application with copies of approved DSRs, DSR summary, and cover letter, are sent to applicants for review and approval.

Applicant approval:

(Exhibit D) must be returned to OES, Disaster Assistance Branch, within 10 days, from the date of approval letter.

Supplements:

May be approved for:

- ◆ overruns/Underruns (Cost Adjustments);
- ◆ changed site conditions/scope adjustments.

Supplements should be requested at the earliest possible time and prior to completion of the work in question.

Requests for a change in scope **must** be filed prior to work commencement.

Funding:

Upon completion and submittal of the OES Form 96 and the NDAA Form 3, the jurisdiction can receive up to 90% of state share; the 10% balance is released after the Final Inspection Report is completed and/or audit is completed by the Office of the State Controller and reviewed by OES for concurrence.

Completion deadline:

When federal funds involved, the federal deadlines apply.

For the OES Director's Concurrence with a local declaration or a Governor's Proclamation of a state of emergency, the following deadlines apply:

Work Category	Time Extension
Debris clearance	6 months from date of local declaration
Emergency work	6 months from date of local declaration
Permanent work	18 months from date of local declaration
	Extensions allowable with adequate justification.

Final claim:

Applicant must submit final claim within 60 days of the completion of **all** approved projects.

Inspection:

A state engineer will complete an on-site inspection of all completed projects.

Audit:

Claims including more than \$50,000 in state assistance will be subject to field audit.

OES contracts with the State Controller's Office to perform audits of expended state and federal funds.

Local government must retain records for at least three years after receipt of the last payment .

Fair hearing process: Pursue all avenues for appeal. For the state program, there are two levels of appeal, with the Director of OES having the authority to make the final decision.

Level	Appeal
Level One:	Discussion with State Program Coordinator
Level Two	The second level appeal is submitted to the Director of OES for consideration and response.
	Director's decision is final.

ATTACHMENTS

- A. Memo from Richard Andrews, Director, regarding: State Funding for Public Assistance Projects

REFERENCES

- ◆ Disaster Assistance Branch, Federal and State Public Assistance Programs, Subgrantee Briefing Packet, OES.
- ◆ Disaster Assistance Procedure Manual, OES, 1985.
- ◆ State Natural Disaster Assistance Act (NDAA), as amended.
- ◆ Title 19, Subchapter 5, the Natural Disaster Assistance Act, California Code of Regulations.

ENDNOTES

1. Disaster Recovery Public Assistance Applicant Packet for Local Government and Special Districts, Governor's Office of Emergency Services.
2. Ibid.
- 3 . Ibid.