

# CHAPTER 16

## FEDERAL PUBLIC ASSISTANCE PROGRAM

**Background:** The Federal Public Assistance Program provides supplementary assistance to public entities--state, and local governments and certain eligible private non-profit organizations. The *Federal Response Plan* is activated only after a Presidential Declaration of a Major Disaster or Emergency. Refer to Chapter 1, Government Coordination, for a discussion of the *Federal Response Plan*.

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☐ **1: Required steps**

In order to receive federal assistance, a local agency must take the following steps after a disaster or emergency:

STEP	ACTION
1	The local government must issue a Local Declaration of an emergency within 10 days after the emergency.
2	The Governor must issue a State of Emergency Proclamation.
3	The President must issue Declaration of a Major Disaster or Emergency.

**Authorities:**

- ◆ Robert T. Stafford Disaster Relief and Emergency Assistance Act;
- ◆ Title 44, Code of Federal Regulations, Part 206 State Administrative Plan for Public Assistance.

**Applicants:**

- ◆ state agencies;
  - ◆ counties;
  - ◆ cities;
  - ◆ special districts;
  - ◆ schools K-12;
  - ◆ colleges and higher education; and
  - ◆ certain private non-profit organizations that provide essential governmental service to the general public are eligible.

**Work Eligibility**

Work **must** be:

- ◆ required as a result of a declared major disaster event;
- ◆ located within a designated disaster area;
- ◆ legal responsibility of an eligible subgrantee; and
- ◆ must not duplicate benefits from other federal agencies.

## ☐ 2: Work categories

**Damage categories:** The following work categories are used by both the state and federal governments relative to funding through the Stafford Act and the Natural Disaster Assistance Act. Local governments must use these categories when preparing damage survey reports and in tracking state and federal disaster or emergency-related expenditures.

For management purposes, FEMA has established the following categories of damage:

- ◆ **Emergency Work** = Categories A and B for emergency actions
- ◆ **Permanent Work** = Categories C through G for permanent repair, restoration and replacement.

Work Categories		Purpose	Completion Deadlines*
<b>Category A</b>	Debris removal and disposal	<p>Clearance of debris and wreckage from publicly and privately owned land and waters.</p> <p>Clean-out of reservoirs, debris catch basin, streams, and opening channels or facilities.</p> <p>Measures undertaken to preserve public health and safety and to eliminate threats to public or private property.</p>	6 months
<b>Category B</b>	Emergency Protective Measures	Measures undertaken to preserve public health and safety and to eliminate threats to public or private property.	6 months
<b>Category C</b>	Road Systems	Eligible facilities include any construction features within the public right of way that are essential to make the road or	18 months

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Work Categories		Purpose	Completion Deadlines*
		street functional, such as: Bridges Drainage structures Embankments Safety features	
<b>Category D</b>	Water Control Facilities	Flood control, drainage, and irrigation works which are operated, controlled or maintained by an eligible subgrantee may be eligible for repair, restoration, or replacement. Examples include: Dikes and levees Irrigation Works Drainage Channels Debris Basins	18 months
<b>Category E</b>	Public Buildings and Equipment	Public buildings and related equipment, owned or maintained by an eligible subgrantee, which are damaged or destroyed, are eligible to the extent not covered by insurance.  Also included are: Office equipment Furnishings and equipment Consumable supplies Library books and publications	18 months
<b>Category F</b>	Public Utilities	Includes the permanent repair, restoration, or replacement of water, power, or sewage systems, to the extent necessary to restore services, in accordance with current codes, specifications, and standards.	18 months
<b>Category G</b>	Other	Includes the permanent repair, restoration, or replacement of park facilities such as playgrounds, swimming pools, boat docks, tennis courts, picnic tables, etc.	18 months

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Work Categories		Purpose	Completion Deadlines*
		Note: This category also used to report items that are not included in the other categories.	

\*dates established from date of major disaster declaration

\*\*With justification, the Governor's Authorized Representative may extend completion deadlines.

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### Time Extensions

With justification, the Governor's Authorized Representative **may** extend completion deadlines.

Category	Extension	What to do	Information to include
Debris Removal	6 months of date of disaster	If projects (DSR categories A-B) extend beyond these deadlines, submit a time extension request to OES.	Reference the DSR number and category for each project requiring an extension. Include justification as to why the project could not be completed within the deadline.
Emergency Protective Measures	6 months of date of disaster	If projects (DSR categories A-B) extend beyond these deadlines, submit a time extension request to OES.	Reference the DSR number and category for each project requiring an extension. Include justification as to why the project could not be completed within the deadline.
Permanent Work	18 months of the declaration date 30 months on a project-by-project basis	If permanent projects (DSR categories C-G) extend beyond these deadlines, submit a time extension request to OES.	Reference the DSR number and category for each project requiring an extension. Include justification as to why the project could not be completed within the deadline.

Additional extensions are subject to FEMA approval.

Remember: Costs are allowed only to date of last approved time extension.

### Emergency work:

Public interest defined as measures **necessary** to:

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- ◆ Eliminate or lessen immediate threats to life, public health, or safety, or threats of significant additional damage to improved public or private property; or
- ◆ Ensure economic recovery of community at large.

**Permanent restoration:**

Work undertaken to restore eligible facilities on the basis of the design of such facilities, as such facilities existed immediately prior to the disaster, in conformity with current codes and standards.

**Administrative costs:**

Allowance for necessary costs of requesting, obtaining, and administering federal disaster assistance sub-grants

**Sliding Scale:** The declining percentage for administrative allowance is based upon the total dollar value of the federal assistance provided (sum of the federal share of all obligated DSRs).

Total \$ value of federal assistance provided	Administrative Allowance
First \$100,000	3 percent
Over \$100,000 to \$1,000,000	2 percent
Over \$1,000,000 to \$5,000,000	1 percent
Over \$5,000,000	.5 percent

☐ **3: FEDERAL ASSISTANCE TO STATE AND LOCAL GOVERNMENTS**

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<b>Briefings:</b>	OES conducts briefings for state, local, and private non-profit organizations as soon as practicable after the declaration of a major disaster or emergency. The purpose is to provide information on the types of assistance available and the means by which funds are provided. Applications for assistance (Notice of Interest) are usually accepted at these briefings to expedite the application process.
<b>Inspection team:</b>	Federal/State/local team inspects every damaged site listed on the applicant's Exhibit B (List of Projects) submitted with the Notice of Interest.
<b>Damage survey reports:</b>	After inspections by the Federal/State/local inspection team, the Federal inspector prepares a Damage Survey Report (DSR). The DSR identifies the project and its location and provides a recommended scope of work and estimated cost in accordance with FEMA eligibility criteria.
<b>Eligible applicants:</b>	<p>Eligible applicants for assistance are:</p> <ul style="list-style-type: none"><li>◆ State governmental agencies/departments;</li><li>◆ local governments;</li><li>◆ Indian tribes or authorized tribal organizations;</li><li>◆ Alaska native villages or organizations; and</li><li>◆ qualifying private nonprofit institutions within the designated disaster area.</li></ul>
<b>Non-profits</b>	<p>Eligible private non profit institutions are:</p> <ul style="list-style-type: none"><li>◆ educational,</li><li>◆ utility,</li><li>◆ emergency,</li><li>◆ medical,</li><li>◆ custodial care, and</li><li>◆ those providing essential services of a governmental nature.</li></ul>



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Assistance for emergency declaration	Assistance for major disaster declaration
<p>Under an emergency declaration, assistance may be approved for:</p> <ul style="list-style-type: none"> <li>◆ public health and safety,</li> <li>◆ emergency measures necessary to save lives,</li> <li>◆ clearance of debris,</li> <li>◆ protection of property, and</li> <li>◆ to lessen or avert the threat of a catastrophe,</li> <li>◆ limited to \$5 million (may be increased), and</li> <li>◆ Governor must request within 5 days of the emergency.</li> </ul>	<p>Under a major disaster declaration, assistance may be approved to fund a variety of projects, including:</p> <ul style="list-style-type: none"> <li>◆ Must be requested by Governor within 30 days following the incident;</li> <li>◆ Clearance of debris, when in the public interest, on public or private land or waters;</li> <li>◆ Emergency protective measures for the preservation of life and property;</li> <li>◆ Repair or replacement of roads, streets and bridges;</li> <li>◆ Repair or replacement of water control facilities (dikes, levees, irrigation works, and drainage facilities);</li> <li>◆ Repair or replacement of public buildings and related equipment</li> <li>◆ Repair or replacement of public utilities; and</li> <li>◆ Repair or restoration of recreational facilities and parks.</li> </ul>

### Compliance requirements:

The applicant must comply with appropriate hazard mitigation, environmental protection and floodplain management regulations as a condition for receiving Federal disaster assistance.

### Other forms of assistance:

Other forms of assistance that may be made available under a Presidential declaration or a major disaster include:

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- ◆ Community disaster loans from FEMA to communities that may suffer a substantial loss of tax and other revenues and can demonstrate a need for financial assistance in order to perform their governmental functions;
- ◆ Repairs and operating assistance to public elementary and secondary schools by the Department of Education;
- ◆ Use of federal equipment, supplies, facilities, personnel, and other resources (other than the extension of credit) from various Federal agencies;
- ◆ Repairs to Federal-aid system roads when authorized by the Department of Transportation; and
- ◆ Repairs to projects when authorized by the United States Army Corps of Engineers or the Soil Conservation Services.

## ☐ 4: REGULATIONS GOVERNING DISASTER ASSISTANCE

<b>Background:</b>	Upon the declaration of a local emergency or a state or federal disaster, state and federal assistance programs become available to help affected states and their jurisdictions in the recovery process.
<b>Regulations:</b>	The regulations governing the public, infrastructure, and individual assistance programs administered by the state and federal governments are listed below.
<b>Be prepared:</b>	It is a good idea to regularly review updates to these regulations as they may have an effect on the types of programs funded and the funding allocated.
<b>Know what you're entitled to:</b>	Know the kinds of assistance your jurisdiction is entitled to and the conditions for receiving that assistance. Keeping current with the most recent changes to the regulations can help when developing the Damage Survey Reports (DSRs) with FEMA.
<b>DSRs:</b>	The DSRs serve as the basis for FEMA and OES reimbursement for the recovery work to be performed and the costs associated with that work.

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<b>Federal Regulations</b>	
The Robert T. Stafford Disaster Relief and Emergency Assistance Act	This act summarizes the process and procedures for declaration, response, and recovery during federally declared disasters.
<p>Code of Federal Regulations Title 44 Part 13 - Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments:</p> <ul style="list-style-type: none"> <li>◆ Subpart A - General,</li> <li>◆ Subpart B - Pre-Award Requirements,</li> <li>◆ Subpart C - Post-Award Requirements,</li> <li>◆ Subpart D - After-the-Grant Requirements</li> </ul>	These regulations describe the administrative procedures and requirements for subgrantees receiving federal funding and awarding contracts for disaster-related repairs
<p>Code of Federal Regulations Title 44 Part 206 - Federal Disaster Assistance for Disasters Declared on or after November 23, 1988:</p> <ul style="list-style-type: none"> <li>◆ Subpart G - Public Assistance Project Administration,</li> <li>◆ Subpart H - Public Assistance Eligibility,</li> <li>◆ Subpart I - Public Assistance Insurance Requirements,</li> <li>◆ Subpart J - Coastal Barrier Resources Act,</li> <li>◆ Subpart K - Community Disaster Loans,</li> <li>◆ Subpart M - Hazard Mitigation Planning,</li> <li>◆ Subpart N - Hazard Mitigation Grant</li> </ul>	These sections describe rules and requirements for Public Assistance Project Administration, applicant and work eligibility, and hazard mitigation.

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Program.	
<b>State Regulations</b>	
The California Natural Disaster Assistance Act - Chapter 7.5  The California Natural Disaster Assistance Act - Title 19, Subchapter 5	This act outlines provisions for state disaster assistance.
<b>Office of Budget and Management Publications</b>	
Circular A-87 - Cost Principles for State and Local Governments  Circular A-122 - Cost Principles for Nonprofit Organizations  Circular A-128 - Audits of State and Local Governments	These publications provide information on eligible reimbursable costs and audit requirements for eligible subgrantees.

☐ **5: DEBRIS REMOVAL GUIDELINES<sup>1</sup>**

**Source:** Debris Management Course (pilot), Reference Manual, Emergency Management Institute, FEMA.

**What's eligible:** Upon the Presidential declaration a major disaster or emergency, Federal assistance is available. FEMA designates the area eligible for assistance and the types of assistance available.

FEMA may grant assistance for:

- ◆ debris removal,
- ◆ emergency protective measures, and
- ◆ the permanent restoration of facilities.

**Contents:** The following information is presented below:

Subsection	Topic
A	Debris Eligibility Criteria
B	Debris Removal Guidelines

☐ **A: DEBRIS ELIGIBILITY CRITERIA**

**Must be for:** Debris removal and emergency protective measures must be necessary to:

- ◆ Eliminate immediate threats of life, public health, and safety; or
- ◆ Eliminate immediate threats of significant damage to improved public or private property.

The following criteria apply to all types of work and to all applicants. There may be additional criteria for specific types of work or facilities.

<b>Debris Eligibility Criteria</b> Basic criteria for all assistance to be eligible are that work or expenses must be:	
<b>A result of the declared event and not of a pre-disaster condition or some other event</b>	<p><b>Direct result.</b> The work must be required as a direct result of the declared event--severe storm, flooding, earthquake, etc.</p> <p>An "incident period" established by FEMA after consultation with the Governor's Authorized Representative generally begins at the start of the event and lasts as long as necessary to include all normal damages from the event.</p> <p>Primarily, damages that occur during the incident period, or are the direct result of events that occurred during the incident period, will be considered for eligibility.</p> <p>In addition, protective measures and other preparation activities performed within a reasonable time in advance of the event will also be considered.</p> <p>Damages that occur after the close of an incident period but can be tied directly to the declared event may also be eligible.</p>
<b>Be within the area designated by FEMA as eligible for assistance.</b>	<p><b>Designated area.</b> The damages must have occurred, or the work or activity may be performed or support the performance of such work, within the designated disaster area.</p> <p>When a declaration of a major disaster is made for a State, the Associate Director designates those counties of the State that are eligible for assistance.</p>

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<b>Debris Eligibility Criteria</b>	
Basic criteria for all assistance to be eligible are that work or expenses must be:	
	<p>The type of assistance is also specified: public assistance (for State and local governments and for Public Non-Profit organizations) and individual assistance (for individuals and families).</p> <p>Different counties may be eligible for one or both types of assistance, depending on the needs of the area.</p>
<b>Be the legal responsibility of the applicant.</b>	<p><b>Responsibility.</b> The work or expense must be the legal responsibility of the applicant. Generally, ownership of a facility is sufficient to establish responsibility for repairs a facility.</p> <p>Mutual aid agreements between local governments or between a local government and the State may establish the responsibility for reimbursement by the government receiving the assistance.</p>
<b>Not eligible for assistance under another Federal program.</b>	<p><b>Cost.</b> Reasonable costs directly attributed to a project are generally eligible. They include labor, materials, and equipment costs when the applicant performs the work itself (force account) or contracts awarded for the work.</p>



☐ **B: DEBRIS REMOVAL ELIGIBILITY**

**Includes:** Debris that may be eligible for clearance and removal includes:

- ◆ trees,
- ◆ sand and gravel,
- ◆ building wreckage,
- ◆ vehicles,
- ◆ personal property, etc.

**Must be for:** To be eligible for FEMA assistance, such removal must be necessary to do one of the following:

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

Debris Removal Guidelines	
<b>Debris removal from public property</b>	<p>Debris that is on public property must be removed to allow continued safe operation of governmental functions and , therefore, if eligible under one of the first two criteria.</p> <p>However, not all public property clearance is necessarily eligible.</p>
<b>Private property</b>	<p>This is the responsibility of the individual property owner aided by insurance settlements and assistance from volunteer agencies.</p> <p>Most homeowner fire and extended coverage insurance policies have specific coverage for debris removal and demolition of heavily damaged structures.</p> <p>FEMA assistance is not available to reimburse private property owners for the cost of removing debris from their property.</p> <p>However, an eligible local or State may government may pick up and dispose of disaster-related debris placed at the curb by those private individuals.</p>

<b>Debris Removal Guidelines</b>	
	<p>If the 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 contracted by an eligible applicant.</p>
<b>Drainage structures</b>	<p>Debris removal from certain drainage structures may have to meet the following criteria:</p> <p><b>Reservoirs:</b> may be eligible in accordance with the criteria for debris basins below. Removal of debris that poses an immediate threat of clogging or damaging intake or adjacent structures may be eligible.</p> <p><b>Natural streams:</b> Not normally eligible for assistance. Only debris that causes a threat to lives or public health and safety or damage to improved property from a 5-year flood event is eligible.</p> <p><b>Engineered channels and debris basins:</b> May be eligible. The pre-disaster level of debris in the channel or basin is of particular importance to determine the amount of disaster-related debris.</p>
<b>Roads and Highways</b>	<p>Debris may be cleared from roads and highways, including the travel lanes and shoulders, roadside ditches and drainage structures, and the maintained right-of-way.</p> <p>Clearance from Federal-aid roads and highways follows these criteria except when the Emergency Relief (ER) program of the Federal Highway Administration (FHWA) is activated.</p> <p>Debris on undamaged sections of highway may be eligible for FEMA assistance.</p>
<b>Recreational and Wilderness Areas</b>	<p>Debris removal is eligible when it affects public health or safety or proper utilization of such facilities.</p> <p>Trees frequently constitute a large part of debris in these areas, and special guidance is noted below:</p> <p>Debris in wilderness or forested areas of these facilities that does not pose a health or safety threat is not eligible.</p>

Debris Removal Guidelines	
	<p>Hazardous trees within a naturalized area of parks or golf courses that are unstable and leaning into the areas used by the public are eligible for removal only, not replacement.</p> <p>Generally, stump removal should not be considered eligible for reimbursement except when a tree eligible for replacement must be replanted in the same spot of it is determined that the stump itself would be a hazard.</p>

☐ **6: PUBLIC ASSISTANCE BUILDING DEMOLITION<sup>2</sup>**

**Source:** The following information is excerpted from the Reference Manual of the Debris Management Course (pilot) prepared by the Emergency Management Institute, National Emergency Training Center, FEMA, pp. 59-65.

**Contents:** Information relative to establishing a diversion program for building demolition is contained in Chapter 9, Building Demolition Program.

The information below describes the types of demolition work that are eligible for federal public assistance demolition funding under section 403, Essential Services, of the Stafford Act.

This section allows for the demolition of unsafe structures that pose an immediate threat to life, property, and public health and safety.

**Four types:** There are four basic types of work that may be eligible for Public Assistance demolition funding under section 403. They are:

Subsection	Topic
A	Health and Safety
B	Attractive nuisance
C	Health hazard
D	Buy-out Program

The eligible scope of work varies depending on which of these four types the Damage Survey Report (DSR) classifies the work as.

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Check the block under Category "A" Debris Clearance - Structural Demolition on the Notice of Interest form if the potential exists for demolition of structures for reasons of health and safety, attractive nuisance, or health hazard.

If the potential demolition is a result of a buy-out program, the buy-out funding agency notifies FEMA Public Assistance.

**NOTE:** The term "applicant" refers to the **jurisdiction** that is applying for the federal funding.

### Process:

1. The applicant (jurisdiction) is contacted by a FEMA representative to schedule a site inspection.

(The DSR inspection team is normally comprised of a FEMA DSR inspector, a State representative, and a representative of the applicant.)

2. The applicant is asked to provide:
  - ◆ list of properties to be inspected
  - ◆ (include owner's name, street address, and the Tax or Parcel identification number),
  - ◆ map identifying each property,
  - ◆ local representative to be part of the inspection team, and
  - ◆ insurance information, if available.
3. The DSR inspection team does not enter into any structure at the time of the inspection. All measurements are taken from the exterior of the structures.

The FEMA inspector, in agreement with the State inspector and local representative, determines if the structure is 50% or more damaged and makes notation of this determination on the DSR.

The DSR includes all the properties identified by the applicant within a specific geographical area, such as

a subdivision.

If several different geographical areas are identified a separate DSR is written for each area. The DSRs are compiled to be closed out as one project.

**Costs:**

**NOTE:** The costs shown on the DSR(s) are only an estimate because there may be a number of variables included in a demolition project, such as:

- ◆ asbestos abatement,
- ◆ hazardous materials removal and disposal,
- ◆ hauling distances,
- ◆ landfill tipping fees,
- ◆ third party air monitoring,
- ◆ local code requirements pertaining to demolition practices, etc.

4. The eligible work identified on the DSR may be accomplished by force account with adequate documentation or by contract work.

When the DSR(s) contain more than one property, the applicant may choose to break up the demolition work into several demolition packages.



**A: HEALTH AND SAFETY**

**Responsibility:**

The primary responsibility for demolition of unsafe structures lies with the owner. Most insurance policies have a clause that provides payment for demolishing houses damaged beyond repair.

The applicant must certify that:

- ◆ no insurance exists that would pay for the demolition,
- ◆ the owner is not capable of paying for such work, and
- ◆ there is no opportunity to recoup the cost from the owner.

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**Condemnation:** If permission for demolition is not provided, the applicant must follow legal condemnation. The applicant must obtain rights of entry and hold harmless agreements prior to start of the work. The ownership of the property remains in the hands of the original owner.

**Checklist:** All properties must be reviewed for historic significance, hazardous materials, endangered species, and other appropriate regulations prior to Federal funds being provided for the demolition.

The State emergency management division provides each applicant with a demolition checklist which the applicant must complete and return prior to any actual demolition of the property.

The checklist provides a partial list of items with which the applicant must comply prior to demolition. These items include:

- ◆ verification that the applicant has obtained rights of entry
- ◆ hold harmless agreements, and
- ◆ investigation of insurance coverages and liens.

**Forms:** The applicant will also be provided forms pertaining to requirements for SHPO, hazardous materials, and endangered species. The applicant must sign and return these forms indicating he has read them and understands that it is his responsibility to assure full compliance with all Federal, State and local rules and regulations regarding the information provided on the form.

The applicant must provide a copy of the bid specifications, final property list, and bid results prior to demolition.

**Authorization:** Once FEMA approves the demolition of properties identified in the demolition bid, the State emergency management

division provides the applicant with written authorization to proceed with the demolition project.

**Eligible work:**

Eligible work is limited to the demolition and removal of structures and other improvements that may represent an immediate threat to public health and safety.

Structures that are in danger of collapse are documented on a DSR and recommended as eligible for demolition.

Other eligible scope of work may include cleaning septic tanks, backfilling basements, capping wells, cleaning up debris, and any other items that may represent an immediate threat to public health and safety.

Items such as slabs on grade, driveways, fences, structurally sound buildings, etc., are not eligible under the public health and safety category.

**Project completion:**

At the completion of the project, the State notifies FEMA that the applicant's demolition has been completed. A joint FEMA/State team inspects the applicant's demolition sites to assure full compliance with the scope of work identified in the DSR.

Eligible costs may include any cost incurred by the applicant to complete the scope of work identified on the DSR.

Every property must be reviewed by the State Historic Preservation Office (SHPO) prior to any demolition. Costs associated with the applicant's obtaining SHPO clearance may be eligible for FEMA PA demolition funding.

Each structure must be inspected for hazardous materials prior to actual demolition of the structure. Costs associated with asbestos inspections, asbestos abatement, third party air monitoring, etc., may be eligible for FEMA PA demolition funding.



**B: ATTRACTIVE NUISANCE**



**Eligible work:**

Eligible work under this category is limited to closing openings around the perimeter of the structure to prevent entrance into the structure and may include fencing where necessary. To secure the structures from access, the FEMA DSR inspector can provide funding for materials (plywood, fencing, etc.) and labor through the DSR process. This finding meets the required need to protect life and safety.

This type of work for securing structures does not apply to properties acquired through an eligible buy-out program. Eligible FEMA public assistance for these properties is for demolition of the structures and other improvements.



**C: HEALTH HAZARD**

**Cleaning:**

If a building is structurally sound but has not been cleared of household debris, food, and other items that represent a health hazard, the scope of work on the DSR may include the cost of cleaning and removing such items.

The primary responsibility for this cleanup lies with the owner. The applicant must certify that:

- ◆ no insurance exists that would pay for such work;
- ◆ the owner is not capable of paying for such work, and
- ◆ there is no opportunity to recoup the cost from the owner.

The applicant must obtain rights of entry and hold harmless agreements prior to start of the work.

☐ **D: BUY-OUT PROGRAM**

**Purpose:** The intent of an eligible buy-out program is to remove structures and other improvements on acquired properties from harm's way, thus eliminating the need for future Federal assistance.

**Scope of work:** The eligible scope of work for FEMA PA demolition funding under a buy-out program includes demolition and removal of all structures and other improvements on the property acquired.

**Eligible properties:** Properties that are abandoned as a result of an eligible hazard mitigation program may qualify as actual or potential sources of endangerment to the public.

All structures and other improvements are to be completely removed from the surface of the acquired property in order for the property to be returned to its natural state.

**Source of funding:** The buy-out funding source for an eligible hazard mitigation program would normally be through FEMA Hazard Mitigation Grant Program section 404 of the Stafford Act or through Community Development Block Grant funding.

**Ineligible funding**

Funding sources such as urban development funding, private funding, National Flood Insurance Program 1362 funding, or any other funding used to acquire the properties are not eligible for FEMA PA demolition funding.

**Costs:** Eligible costs may include any cost incurred by the applicant to complete the scope of work identified on the DSR(s). Necessary costs of requesting, obtaining, and administering the demolition program are covered by the Subgrantee Administrative Allowance.

**Ineligible costs:** Title search costs, closing costs, etc. are not eligible for FEMA PA demolition funding. These are costs associated with the acquisition of the property and are the responsibility

of the buy-out funding source. Any costs associated with obtaining SHPO clearance on the properties is not eligible.

Costs associated with removal of contaminated soil, large quantities of hazardous materials, etc., are not eligible costs. These costs are the responsibility of the original owner. Removal of public streets, curbs, gutters, etc., are not eligible.

Seeding is normally not an eligible cost unless seeding is required to prevent erosion on a sloped terrain or there is a local code or regulation that requires seeding of disturbed demolition sites.

Each structure must be inspected for hazardous materials prior to actual demolition of the structure. Costs associated with asbestos inspections, asbestos abatement, third party air monitoring etc., may be eligible for FEMA PA demolition funding.

## ☐ 7: DAMAGE ASSESSMENT AND DAMAGE SURVEY REPORTS

**Source:** This discussion is excerpted from the *San Joaquin Disaster Recovery Manual*, 8/95.

**Background:** Damage assessments and Damage Survey Reports or DSRs are the foundation for FEMA/OES reimbursement after a disaster. The DSRs do the following:

- ◆ provide a description of the damage,
- ◆ set forth the scope work, and
- ◆ give a cost estimate of the work to be performed.

Based upon the damage assessment conducted by the federal/state/local inspection teams, a DSR is written.

It is important to understand the significance of the damage assessment process and the development of the DSR so that the "scope of work" adequately reflects the work needed.

**Contents:** There are five sections.

SUBSECTION	TOPIC
A	Damage Assessment
B	Types of Damage Assessment
C	Survey Team Staff
D	Signing the Damage Survey Report
E	Facilities Over 50 Years of Age and Archaeological Sites

☐ **A: DAMAGE ASSESSMENT**

**Definition:** Damage assessment is the systematic process of gathering early estimates in dollars and descriptions of the location, nature and severity of damage sustained by the public and private sectors in an emergency or disaster.

**Basis for aid:** Damage assessment is the basis for determining the type and amount of state and federal assistance necessary for recovery. Damage assessment is NOT eligible for reimbursement; however, safety inspections are eligible.

**Public sector:** The public sector category includes damage to public facilities such as roads, bridges, public buildings, schools, hospitals, non-profit educational, utility, emergency, medical, and custodial care facilities.

**Private sector:** The private sector category includes damage to homes, businesses, farms, private schools and hospitals, and personal possessions.

☐ **B: TYPES OF DAMAGE ASSESSMENT**

**Initial assessment:** Sometimes called a "window survey," this may be conducted by field responders, or other agencies that can give a quick picture of the incident as they perform other emergency duties.

**Safety inspections:** This refers to searches for "life or property threatening" situations to decide what actions need to be taken to reduce the threat:

- ◆ search and rescue in buildings,
- ◆ water and sewer line leaks, and
- ◆ unsafe buildings.

**Site assessment:** When local damage assessment teams review damage sites to collect basic information and initial costs of repairs to present to the Preliminary Damage Assessment teams.

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**PDA team:** Preliminary Damage Assessments (PDA) are begun as soon as it is determined that state or federal assistance may be requested. This data is reported to State OES along with the request for a Gubernatorial Proclamation.

**DSR:** After a declaration and submittal of "Exhibit B" List of Projects, federal and state teams will meet with the local agency to develop an estimate to repair each site. This cost figure will be used to track the repairs until completed.

### ☐ **C: SURVEY TEAM STAFF**

**Federal/State team:** Damage surveys are usually conducted by a Federal/State inspection team. A department representative accompanies the Federal/State inspection team and is responsible for representing the applicant and assuring that all damage and needs for assistance are inspected.

**Minimum amount:** **NOTE:** State OES will no longer fund DSRs less than \$1000, or any other DSR that FEMA declares ineligible. As of September 3, 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 Attachment A, memo from Richard Andrews, Director, regarding: State Funding for Public Assistance Projects).

### ☐ **D: SIGNING THE DSR**

**Who signs:** The County Local Agent (normally OES), is the only authorized person to sign the Damage Survey Report (DSR) on the Local Representative signature line.

The County Local Agent will confer with the person who participated on his behalf on the DSR team. This discussion will determine if the County should concur or not concur with the findings.

**Effect of DSR:** By signing Item 16 of the DSR [90-91], the Federal representative indicates that from an engineering point of

view, the content of the DSR provides an accurate and reasonable basis for FEMA to make a determination of eligibility of work and of project costs.

**Keep copy:**

**NOTE:** Get a copy of the DSR for your file. Give photos to team only if you have a spare, originals are to be released to the team after a "best" copy has been attempted.

**Only estimate:**

The DSR, when reviewed, is a recommendation based on an *estimate*. It is not approved for FEMA funding until it is included in the project application which is approved by the Governor's Authorized Representative and by the Regional Director, or their duly authorized representatives.

**Review carefully:**

Block 13 of the DSR should be reviewed very carefully with each local DSR team member to ensure that the description is a true reflection of what the County deems necessary.



**E: FACILITIES OVER 50 YEARS OF AGE AND ARCHEOLOGICAL SITES**

**National historic preservation act:**

FEMA is responsible for complying with Section 106 of the National Historic Preservation Act by determining for each property receiving federal funding the eligibility or potential eligibility for inclusion on the National Register of Historic Places (identification step).

FEMA is also responsible for assessing the effect of projects on each of the eligible properties identified (effects step).

**Funding denied:**

Funding may be denied if FEMA is not given the opportunity to comply. Inform DSR teams if you know the site has been included on a local, state, or national register.

☐ **8: ENVIRONMENTAL REVIEW REQUIREMENTS**

**Source:** OES Applicant Briefing Package

**Contents:** This discussion has six subsections.

SUBSECTION	TOPIC
A	NEPA requirements
B	Preliminary review form
C	Environmental assessment
D	Denial of funding
E	Disaster assistance
F	OES assistance

☐ **A: NEPA REQUIREMENTS**

The Federal Emergency Management Agency (FEMA) and the State Office of Emergency Services (OES) are required by federal law to carry out Public Assistance programs in accordance with all applicable environmental regulations.

This includes all applicable local, state, and Federal laws that apply to the protection of the environment. FEMA cannot fund projects until the requirements of the National Environmental Policy Act (NEPA) have been met.

Regulations for implementing NEPA are found in 40 Code of Federal Regulations (Council on Environmental Quality) Sections 1500-1508. Guidelines for FEMA's handling of NEPA are found in 44 Code of Federal Regulations Part 10.



☐ **B: PRELIMINARY REVIEW FORM**

The inspection team assigned to survey damage at a site will complete a Preliminary Review form to be included in every Damage Survey Report (DSR) for the site.

The form is based on 44 Code of Federal Regulations 10 which state that certain actions undertaken by applicants are *categorically excluded* (CAT X) from further NEPA review but that Extraordinary Circumstances will make a more extensive NEPA review necessary.

☐ **C: ENVIRONMENTAL ASSESSMENT**

If further review is necessary, FEMA may prepare, with input from other agencies, an Environmental Assessment or Environmental Impact Statement to determine if the proposed action may have a significant effect on the environment.

Other local, state, and Federal laws may apply to the review process, such as the Endangered Species Act or the Clean Water Act. FEMA will use the appropriate NEPA document as a decision-making tool in the project approval process.

☐ **D: DENIAL OF FUNDING**

Federal funding may be denied if FEMA cannot comply with NEPA before work begins on a Disaster Assistance Project which may impact the environment. Applicants are responsible for proper and timely assistance in this process.

☐ **E: DISASTER ASSISTANCE PROJECTS**

Disaster Assistance projects are also subject to the requirements of the California Environmental Quality Act (CEQA).

- ◆ Applicants are responsible for conducting their own CEQA documentation through the appropriate state or local agency.

- ◆ CEQA documentation does not substitute for compliance with NEPA.
- ◆ Where both CEQA and NEPA are necessary, an integrated document is encouraged by state and federal laws, to avoid unnecessary duplication of effort.
- ◆ Improved and alternate projects may be subject to NEPA and CEQA review.

☐ **F: OES ASSISTANCE**

The Disaster Assistance Branch of the OES will assist applicants in their environmental compliance activities.

Applicants requiring assistance with environmental issues should contact the nearest OES Regional Office.

☐ **9: HAZARD MITIGATION**

**Hazard mitigation:** The Regional Director may require cost effective  
**(Required)** hazard mitigation measures not required by applicable standards.

The cost of these measures is fully eligible, in accordance with FEMA public assistance funding criteria.

**Grant program:** Section 404 of the Stafford Act establishes a Hazard Mitigation Grant Program to fund state and local post-disaster mitigation measures.

**More information:** Refer to Attachment B for more information on the Hazard Mitigation Grant Program administered by OES.

☐ **10: HISTORIC REVIEW REQUIREMENTS**

**Source:** Disaster Recovery Public Assistance Applicant Packet for Local Government and Special Districts, OES

**Contents:** There are four sections in this discussion.

Section	Topic
A	National Historic Preservation Act
B	Process to follow
C	Types of Repairs
D	Denial of federal funding

☐ **A: National Historic Preservation Act**

**Purpose:** The National Historic Preservation Act was established by Congress in 1966 in order to ensure identification and protection of historic properties.

The Act established the following:

- ◆ National Register of Historic Places and the criteria for nominating properties for the Register,
- ◆ the Advisory Council on Historic Preservation (Council) as an independent federal agency, and
- ◆ designation of State Historic Preservation Officers (SHPOs) appointed by the governors of each state.

☐ **B: PROCESS TO FOLLOW**

**Action steps:** Following are the steps to take in determining whether properties fall into the category of historic properties and whether additional efforts need to be undertaken with the State Historic Preservation Officer to protect the properties.

STEP	ACTION	COMMENT
1	<b>Consult with SHPO</b>	Section 106 of the Act requires all federal agencies with undertakings affecting historic properties in California to take into account the effects of the undertaking through a consultation process with the California SHPO and the Council.
2	<b>Identify properties</b>	FEMA coordinates through OES with a joint Preservation team to identify and review affected properties.
3	<b>Evaluate properties</b>	Each property is evaluated for eligibility or potential eligibility for inclusion on the National Register of Historic Places.

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STEP	ACTION	COMMENT
4	<b>Assess effect of project</b>	The team is also responsible for assessing the effect of projects on each of the properties identified as eligible for the register. The team must coordinate this assessment with input from the California SHPO and the Council.

### ☐ **C: TYPES OF REPAIRS**

**Match materials:** Repairs matching existing materials and construction, and minor replacement of materials with like-kind materials and finishes will, typically, be considered as having no effect on the historic significance of the property.

Review of these types of repairs are not expected to cause delays to the normal time period for state and federal funding. Complete or significant demolition and major improvements or alterations to the historic characteristics of the property may require review in a third consultation step.

**Coordinate review:** The team coordinates review by the California SHPO and Council and other interested parties and utilizes the consultation process to the fullest extent practicable to seek ways to reduce or avoid effects on historic properties.

**No resolution:** Where resolution cannot be achieved, FEMA shall seek and consider the comments of the Council in reaching final decision on the proposed undertaking.

☐ **D: DENIAL OF FEDERAL FUNDING**

**Denial:** Federal funding may be denied if FEMA is not given proper assistance and opportunity to comply with this process prior to initiation of construction or other actions which impact historic properties.

**Inform team:** If the property is already included in a local, state, or national register of historic properties, districts, or sites, inform the team at the time the property is inspected.

**Direct questions to OES:** Any questions concerning the historic review process should be directed to OES Disaster Assistance Branch at the 916-464-1005.

## **ATTACHMENTS**

- A. Memo from Richard Andrews, Director, regarding: State Funding for Public Assistance Projects.
- B. Hazard Mitigation Program Description, Office of Emergency Services.

## **REFERENCES**

- ◆ Digest of Federal Disaster Assistance Programs, FEMA, DAB-21/June 1989.
- ◆ Disaster Recovery Public Assistance Applicant Packet for Local Government and Special Districts, Office of Emergency Services.

## **ENDNOTES**

1. Debris Management Course, Reference Manual, Emergency Management Institute, National Emergency Training Center, pages 54-59.
2. Ibid, pp.59-65.