

**PUBLIC ASSISTANCE DR-4708
PRIVATE NONPROFIT ELIGIBILITY
BULLETIN #5 – 5/11/23**

The following fact sheet was released by FEMA outlining private nonprofit organization eligibility.

Additionally, FEMA has created the following video about FEMA Public Assistance opportunities for Houses of Worship. <https://www.youtube.com/watch?v=7xfzOEVHQ44>

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FEMA Public Assistance: Private Nonprofit Organizations

Certain private nonprofit (PNP) organizations are eligible to apply for funding through Federal Emergency Management Agency's (FEMA's) Public Assistance (PA) Program under emergency and major disaster declarations. This fact sheet provides guidance for determining the eligibility of PNP applicants, including Houses of Worship (HOWs), and work performed in accordance with emergency and major disaster declarations.

Overview

The mission of FEMA's PA Program is to provide assistance to State, local, Territorial, or Tribal (SLTT) governments, and certain types of PNPs, including HOWs, so that communities can quickly respond to and recover from major disasters or emergencies declared by the President. Through the PA Program, FEMA provides assistance for debris removal, emergency protective measures, and the restoration of disaster-damaged, publicly owned facilities and specific facilities of certain PNP organizations.

PNP Applicant Eligibility

Only certain PNPs are eligible Applicants for PA assistance. To be eligible for PA, PNP applicant must show that it:

1. Has a ruling letter from the U.S. Internal Revenue Service that was in effect as of the declaration date and granted tax exemption under sections 501(c), (d), or (e) of the Internal Revenue Code; or Documentation from the State substantiating it is a non-revenue producing, nonprofit entity organized or doing business under State law,¹ and
2. Owns or operates a facility that provides an eligible service.²

If the organization is not required to obtain 501(c)(3) status or tax-exempt status under applicable State law, the organization must provide articles of association, bylaws, or other documents indicating that it is an organized entity, and a certification that it is compliant with Internal Revenue Code section 501(c)(3) and State law requirements.

¹ 44 C.F.R. § 206.221(f).

² 44 C.F.R. § 206.222(b).



PNP HOWs: The Bipartisan Budget Act of 2018 amended the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act) to add HOWs as eligible PNP facilities. FEMA announced on January 2, 2018, that PNP HOWs are eligible for disaster assistance without regard to their secular or religious nature. PNP HOWs are eligible for PA as facilities that provide a non-critical, essential social service to the general public. PNP HOWs are treated like any other eligible, non-critical PNP facility. HOWs cannot be deemed ineligible because leadership or membership in the organization operating the HOW is limited to persons who share a religious faith or practice. PNP HOW applicants need to meet the general PA eligibility requirements as well as the generally applicable PNP requirements.

For-Profit Entities: For-profit entities are not eligible applicants for assistance from FEMA under the Public Assistance Program. However, SLTT government entities may contract with private entities, including for-profit entities, to carry out eligible emergency protective measures. In these cases, FEMA will reimburse the eligible applicant for the cost of eligible work, and the applicant may then compensate the private entity for the provision of goods or services.

PNP Facility Eligibility

Own or Operate an Eligible Facility: Prior to determining whether the PNP is an eligible applicant, FEMA must first determine whether the PNP owns or operates an eligible facility.³ For PNPs, an eligible facility is one that provides an eligible service. An eligible service may be a critical service, defined as education, utilities, emergency, or medical;⁴ or, a facility that provides a noncritical, but essential social service AND provides those services to the general public.⁵ Facilities established or primarily used for political, athletic, recreational, vocational, or academic training, conferences, or similar activities are ineligible.⁶

Multiple Services: In cases where the facility provides multiple services, such as a community center, FEMA reviews additional items to determine the primary service that facility provides.

Multiple Facilities: If a PNP operates multiple facilities, or a single facility composed of more than one building, FEMA must evaluate each building independently, even if all are located on the same grounds. Structures that are part of a complex that includes outdoor facilities (e.g., swimming pools, athletic fields, or tennis courts) are not evaluated separately from the rest of the complex when determining eligibility of the building.

Mixed Use Facilities and Mixed Use Space: PNP facilities that provide both eligible and ineligible services are considered mixed-use facilities. Eligibility of mixed-use PNP facilities is dependent on the *primary* use of the facility,

³ 44 C.F.R. § 206.222(b).

⁴ Stafford Act § 406(a)(3)(B), 42 U.S.C. § 5172; 44 C.F.R. § 206.221(e). See also Public Assistance Program and Policy Guide (PAPPG) V.4 Table 1. PNP Eligible Critical Services.

⁵ Stafford Act § 102(11); 44 C.F.R. § 206.221(e)(7). See also PAPPG V.4 Table 2. PNP Eligible Noncritical, Essential Social Services. Under Stafford Act §102(11), center-based childcare and permanent custodial care facilities, while not critical facilities, do not have to be open to the general public.

⁶ See PAPPG V.4 Table 3 for PNP Ineligible Services.

which is determined by the amount of physical space dedicated to eligible and ineligible services.⁷ In cases where the same physical space is used for both eligible and ineligible services, the primary use is the use for which more than 50 percent of the operating time is dedicated in that shared physical space.⁸

SBA Loan Requirement: Following a Major Disaster Declaration, the U.S. Small Business Administration (SBA) can provide loans to individuals and businesses for facility restoration. For PNPs with facilities that provide noncritical, essential social services, FEMA only provides PA funding for eligible Permanent Work costs that an SBA loan will not cover for those facilities.⁹ FEMA may provide financial assistance if the PNP is denied a loan or if the loan authorized is insufficient to cover repair costs.

PNP Work Eligibility

To be eligible, work must be the legal responsibility of the Applicant requesting assistance.¹⁰

Emergency Work: To determine legal responsibility for Emergency Work, FEMA evaluates whether the Applicant requesting the assistance has the legal authority to conduct the work related to the request at the time of the incident. For PNP Applicants, eligible Emergency Work is generally limited to that associated with an eligible PNP facility as follows:

- **Debris removal (Category A)** from the facility property.
 - For a PNP, eligible debris removal is limited to that associated with an eligible facility, including debris on the property of the eligible facility.¹¹
- **Emergency protective measures (Category B)** to prevent damage to the facility and its contents.
 - Emergency protective measures are usually the responsibility of SLTT governments. Therefore, PNPs are generally not legally responsible for those services and FEMA does not provide PA funding to PNPs for the costs associated with providing those services. When a PNP provides emergency services at the request of, and certified by, the legally responsible government entity, FEMA provides PA funding through that government entity as the eligible Applicant.¹²
 - PNPs that own or operate a medical or custodial care facility are eligible for direct reimbursement of costs related to patient evacuation.¹³
 - In limited circumstances, FEMA may also reimburse a PNP directly when essential components of a facility are urgently needed to save lives or protect health and safety, such as an emergency room of a PNP hospital or a PNP sewage or water treatment facility.¹⁴

⁷ See PAPPG V.4 Chapter 4:II.B.1(a). Mixed Use Facilities

⁸ See PAPPG V.4 Chapter 4:II.B.1(b). Mixed Use Space

⁹ See PAPPG V.4 Chapter 4:II.B.2. Small Business Administration Loan Requirement

¹⁰ 44 C.F.R. § 206.223(e)

¹¹ See PAPPG V.4 Chapter 7:I. Debris Removal (Category A)

¹² See PAPPG V.4 Chapter 7:II.D. Emergency Protective Measures Conducted by PNPs

¹³ Id. (PAPPG V.4, pages 112-113)

¹⁴ Id. (PAPPG V.4, pages 112-113)

- Additionally, if a PNP volunteer fire department operates based on established agreements with a SLTT government that designates the volunteer fire department as an official recognized entity legally authorized to provide emergency services in areas of coverage specifically designated by the SLTT government, FEMA may reimburse the volunteer fire department directly as an eligible Applicant.¹⁵

Permanent Work: To determine legal responsibility for Permanent Work (Categories C-G), FEMA evaluates whether the Applicant claiming the costs had legal responsibility for disaster-related restoration of the facility at the time of the incident based on ownership and the terms of any written agreements (such as for facilities under construction, leased facilities, and facilities owned by a Federal agency).

- FEMA provides PA funding to restore facilities based on pre-disaster design and function in conformity with current applicable codes and standards.¹⁶ Eligible codes and standards must be legally adopted by the local jurisdiction. FEMA does not recognize codes or standards adopted by a PNP specifically for its facilities.¹⁷
- For insurable facilities located in a Special Flood Hazard Area (SFHA), FEMA does not apply a mandatory flood insurance reduction to eligible project costs for PNP facilities¹⁸ in communities that do not participate in the National Flood Insurance Program (NFIP).¹⁹ However, for FEMA to provide PA funding for the PNP facility, the community must agree to participate in the NFIP within 6 months of the declaration and the PNP must purchase the required flood insurance; or the PNP must obtain and maintain flood insurance from another source.²⁰
- Any hazard mitigation the PNP undertakes must either be funded at no more than 15% of repair costs (prior to any insurance reductions) or be shown to be cost effective by inclusion in the PAPPG Version 4 Appendix J or through an acceptable cost-effectiveness analysis (such as FEMA's [benefit-cost analysis tool](#)).

Cost Eligibility

FEMA provides PA funding to all eligible applicants at a cost share of no less than 75 percent. Eligible costs must be:

- Directly tied to the performance of eligible work;
- Adequately documented;
- Reduced by all applicable credits, such as insurance proceeds and salvage values;
- Authorized and not prohibited under Federal or SLTT government laws or regulations;
- Consistent with the Applicant's internal policies and procedures; and
- Necessary and reasonable to accomplish the work properly and efficiently.

Project Amounts

In August 2022, FEMA published a [final rule](#) to increase the small project maximum for the agency's PA program to \$1 million. This reduces the administrative burden on SLTTs and PNP receiving FEMA financial grants following a disaster. Section 422 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act) allows

¹⁵ See PAPPG V.4 Chapter 7:II.D. Emergency Protective Measures Conducted by PNP.

¹⁶ Stafford Act § 406(e), 42 U.S.C. § 5172(e); 44 C.F.R. § 206.226(d).

¹⁷ See PAPPG V.4 Chapter 8:III:A:4, Written, Formally Adopted, and Implemented.

¹⁸ For an NFIP insurable facility located in a SFHA, FEMA must reduce PA funding when the facility is located in a SFHA that FEMA has identified as a SFHA for more than one year; damaged by flooding; and uninsured for flood. See PAPPG V4 Chapter 8:VII.B.1.

¹⁹ 44 C.F.R. § 206.252(b).

²⁰ Id. (44 C.F.R. § 206.252(b))

FEMA to implement simplified procedures for projects below an established threshold. Congress authorized simplified procedures in 1988 to support program efficiency and allow lower dollar projects the opportunity to receive funding for recovery faster. Simplified procedures allow FEMA to fund eligible small projects based on estimates, which expedites disaster recovery funding to applicants.

FEMA establishes a minimum project threshold and a large project threshold for each Federal fiscal year that apply to incidents declared within that fiscal year. The thresholds are based on the Consumer Price Index and are available at: [Per Capita Impact Indicator and Project Thresholds | FEMA.gov](#).

- Project costs must equal or exceed the minimum project threshold to be eligible.
- Small Projects are those with costs above the minimum project threshold and less than the large project threshold.
- Large Projects are those with costs equal to or greater than the large project threshold.

FEMA does not adjust estimated Small Project costs to actual final costs. FEMA adjusts estimated Large Project costs to actual final costs.

Application Process

Following a President's declaration, the Recipient (the State, Tribal, or Territorial government entity that administers the PA award) conducts Applicant Briefings to provide information to potential Applicants about the PA Program. Applicants are SLTT government entities and PNPs that apply for PA by submitting a Request for Public Assistance (RPA) via FEMA's Public Assistance Grants Portal (<https://grantee.fema.gov>). Grants Portal is the system Applicants use to submit and manage PA project applications. FEMA accepts RPAs up to 30 days from the date the area (county, parish, city, municipality, etc.) was designated in the declaration. After FEMA approves the RPA, the Applicant receives notification of approval and instructions on how to request funding for its incident-related impacts.

More Information

Please see FEMA's [Public Assistance Program and Policy Guide](#) (PAPPG) Version 4 for further information. The PAPPG provides comprehensive information regarding assistance that FEMA may provide and the requirements that PNP applicants must follow in order to receive PA assistance. PNPs, including HOWs, interested in applying for a PA Grant should contact their local or state emergency manager to begin the process and submit an RPA form. Applicants are highly encouraged to submit their forms through the online [FEMA Grants Portal](#) for faster processing.