

# FEMA PUBLIC ASSISTANCE AND THE COVID-19 CRISIS



## BACKGROUND

President Trump declared a national emergency under Section 501(b) of the Stafford Act on March 13 in wake of the ongoing COVID-19 pandemic.

As such State, Territorial, Tribal, local government entities and certain private non-profit (PNP) organizations are now eligible to apply for the FEMA Public Assistance Grant Program (PA) as a result. The 501(b) declaration allows for PA category A (debris removal) and category B (emergency protective measures) to be provided. This will be provided with the typical 75% federal government match.

According to FEMA's website - IA is typically not offered under a Section 501(b) declaration and [releases](#) from FEMA describing the declaration do not mention individual assistance. A declaration of an emergency does not preclude individual requests for a disaster declaration that could allow for IA.

It is important to note that FEMA documents have addressed an infectious disease event before, saying that the HHS Centers for Disease Control and Prevention (CDC) has primary authority to enable support and assistance to States, Territorial, or Tribal Governments in response to an infectious disease event. FEMA may provide assistance for the rescue, evacuation, and movement of persons; movement of supplies; and care, shelter, and other essential needs of affected human populations. Any assistance provided by FEMA in response to an infectious disease event is done in coordination with the CDC.

Direct federal assistance can be offered by FEMA to support an infectious disease event. It covers a wide range of [services](#) but does not include sheltering. In contrast there is no Pre-Scripted Mission Assignment (PSMA) for HUD's role in FEMA providing Direct Federal Assistance.

## WHAT CAN THE CATEGORY B MONEY BE USED FOR?

Entities can use PA funds for eligible emergency protective measures taken to respond to the COVID-19 emergency. Reimbursements for said protective measures are to be provided under Category B of the agency's Public Assistance program. Emergency protective measures are actions taken by a community that eliminate or reduce an immediate threat to life, public health or safety or significant damage to improved public or private property in a cost effective manner.

FEMA may require certification by the state/local gov that a threat exists including: the identification and evaluation of the threat and recommendations of the work necessary to cope with that threat.

### Eligible uses include (pertinent uses in bold):

- **Transporting and pre-positioning equipment and other resources for response**
- Flood fighting
- **Emergency Operation Center (EOC)-related costs**

- Emergency access
- **Supplies and commodities**
- **Medical care and transport**
- **Evacuation and sheltering, including that provided by another State or Tribal government**
- **Child care**
- Safety inspections
- Animal carcass removal
- Demolition of structures
- Search and rescue to locate survivors, household pets, and service animals requiring assistance
- Fire fighting
- **Security, such as barricades, fencing, or law enforcement**
- **Use or lease of temporary generators for facilities that provide essential community services**
- Dissemination of information to the public to provide warnings and guidance about health and safety hazards using various strategies, such as flyers, public service announcements, or newspaper campaigns

- Searching to locate and recover human remains
- Storage and interment of unidentified human remains
- **Mass mortuary services**

## Evacuation and Sheltering

Generally in the PA context, FEMA does not provide PA funding for emergency sheltering in non-congregate environments such as hotels, motels, dorms, unless congregate sheltering is unavailable. Some exceptions do apply.

### For congregate sheltering, FEMA can cover (only pertinent are listed):

- Facility lease or rent, including space for food preparation
- Utilities
- Minor work to gain ADA compliance
- Medical staff
- Personal assistance service staff
- Custodial and facilities staff
- Food
- Durable medical equipment
- Consumable medical supplies
- Baby food/formula
- Personal hygiene kits
- Emergency and immediate life stabilizing care
- Triage, medically necessary tests
- Care for evacuees with chronic conditions
- Administering vaccines
- Medical waste disposal
- Mental health care
- Costs paid to the Red Cross or other NGO's.

## Operating Expenses

FEMA is also able to cover "expenses related to operating a facility or providing a service" is 1) the services are specifically related to eligible emergency actions to save lives or protect public health and safety or improved property (i.e. the list above); 2) the costs are for a limited period of time based on the exigency of the circumstances; and 3) the applicant tracks and documents the additional costs. Private non-profits (PNP's) are not eligible for this.

### Potentially eligible uses include:

- Generators at a hospital or police station
- Water testing and treatment supplies in the immediate aftermath of the incident to counter a specific threat
- Fuel for increased use of a pumping station
- EOC facility costs (e.g., utilities)

## Temporary Relocation of Essential Community Services

Certain essential community services are eligible to be relocated provided the PNP owns and operates the facility in which the services are provided. Homeless shelters are included in this list. Sadly, FEMA has stated that the capacity of the temporary facility must not exceed the pre-disaster capacity of the facility that housed the displaced services. Meaning that shelters are not likely able to utilize this to move to larger spaces.

## Medical Care

When the emergency medical system within an area is overwhelmed, FEMA may fund extraordinary costs associated with operating emergency rooms and with providing temporary facilities for emergency medical care of survivors.

- Triage and medically necessary tests and diagnosis
- Treatment, stabilization, and monitoring
- First-aid assessment and provision of first aid
- A one-time 30-day supply of prescriptions for acute conditions or to replace maintenance prescriptions
- Vaccinations for survivors and emergency workers to prevent outbreaks of infectious and communicable diseases
- Durable medical equipment
- Consumable medical supplies
- Temporary facilities, such as tents or portable buildings for treatment of survivors
- Leased or purchased equipment for use in temporary medical care facilities
- Security for temporary medical care facilities
- Use of ambulances for distributing immunizations and setting up mobile medical units

## HOW CAN GOVERNORS ACCESS THE FUNDING?

State, Territorial, Tribal, local government entities and certain private non-profit (PNP) organizations are now eligible to apply for the FEMA Public Assistance Grant Program (PA) as a result. The 501(b) declaration allows for PA category A (debris removal) and category B (emergency protective measures) to be provided. This will be provided with the typical 75% federal government match.

Typically, application request must be filed within 30 days of the federal declaration, which would be by April 12th. If the request is approved, FEMA will conduct additional meetings with applicants to discuss disaster damage and project formulation. Applicants must identify and report damages to FEMA within the 60-day regulatory timeframe. FEMA, the recipient, or the applicant will then prepare project worksheets for eligible work and eligible facilities based on actual or estimated project costs. Recipients are responsible for managing the funds obligated to them by FEMA, including disbursement to applicants. FEMA will continue to monitor the recovery progress to ensure the timely delivery of eligible assistance, and compliance with federal laws and regulations.

## WHAT NON-PROFITS ARE ELIGIBLE?

Only certain Private Non-Profit Organizations (PNP's) are eligible for Category B Public Assistance. To be eligible, the Nonprofit in question must have an IRS-granted tax exemption or documentation from the state showing that they are a non-revenue producing, nonprofit entity organized under state law. They must own or operate a facility that provides "eligible services." These eligible services are broken into two parts 1) Eligible Critical Services and 2) Eligible Non-Critical, Essential Social Type Services.

### Eligible Critical Services include:

- Educational Facilities
- Utilities
- Medical Care

### Eligible Non-Critical, Essential Social Type Services Include facilities that offer:

- Art, educational, and community group programming
- Alcohol, drug treatment, and rehab services
- Assisted living, custodial care, childcare, or day care for adults living with disabilities or access and functional needs
- Food assistance, health and safety services
- Homeless Shelters, low-income housing (but not public housing), residential and other services for victims of domestic violence, residential services for individuals with disabilities
- Zoos and some museums
- Performing Art Centers
- Senior Citizen Centers
- Public broadcasting that distributes the emergency alert system.

### A Nonprofit that owns or operates a facility offering the above services can be eligible as a PNP if such use of the facility is not limited to any of the following:

- A certain number of individuals
- A defined group of individuals who have a financial interest in the facility (HOA's, Condominium Associations, etc...)
- Certain classes of individuals (NOTE: This requirement does not apply to facilities that restrict access in a manner clearly related to the nature of the facility)
- An unreasonable restrictive geographical area, such as a neighborhood within a community.

In cases where a facility operates multiple services, FEMA will review IRS documentation, business governing documents, and evidence of longstanding, routine (day-to-day) use in order to determine eligibility.

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