

PUBLICATION

Hurricane Ian: Preparing for Public Assistance

Authors: Wendy Huff Ellard, Michelle Faye Zaltsberg

September 29, 2022

Our thoughts are with our colleagues, clients, and friends affected by Hurricane Ian as it continues to wreak havoc on the State of Florida. At this time, safety of residents, search and rescue, and support of critical infrastructure are the chief concerns; however, as soon as they are able, both public and nonprofit entities must consider the available resources to help defray costs, including insurance and federal disaster assistance programs.

- **Major Disaster Declaration Issued for Florida.** On September 24, President Biden approved an [emergency declaration](#) for the State of Florida to supplement state, tribal, and local recovery efforts in the areas impacted by Hurricane Ian beginning on September 23. This action makes funds available to eligible applicants through the Federal Emergency Management Agency (FEMA) Public Assistance program. Under this declaration, assistance for debris removal and emergency protective measures completed by eligible entities in the declared counties is currently authorized for a 75% share of cost. It is anticipated that a major disaster declaration will be issued soon. On September 28, the President followed up with issuance of a [major disaster declaration](#) to expand the types of federal aid available to individuals and impacted public and eligible private non-profit entities. The declaration and corresponding aid will continue to expand as officials are able to assess the impacts from this powerful event.
- **Procurement and Grant Conditions Compliance.** State and local governmental entities and private nonprofits providing governmental-type services (e.g., utilities, hospitals, educational providers, emergency and custodial care facilities) that are eligible to receive grants through FEMA's Public Assistance program for debris removal, emergency costs, and restoration of infrastructure must be mindful of applicable federal procurement policies. It is of critical importance for any procurements, standards of conduct, and forms of contract for any work that might be reimbursable to comply with federal regulations to protect the eligibility of associated funding. If you need assistance with these efforts, our [Disaster Recovery and Government Services Group](#) has developed a Procurement Toolkit and other compliance aids. **If emergency work to date is not fully compliant, it is not too late to protect against disallowance of assistance that would otherwise be eligible.**
- **Document Damages, Work Performed, and Costs Incurred.** All affected entities or people should document damage (including photographs to the extent possible), work performed (including paid and volunteer assistance), and costs incurred (including copies of all receipts and time logs). These records can support insurance claims and will be required to support claims to FEMA for additional assistance.
- **FEMA Registration.** Impacted individuals and entities that are eligible for assistance should register with FEMA as soon as possible to protect eligibility. Registration also helps to ensure receipt of any updates regarding response and recovery resources, FEMA assistance availability, extension of any legal deadlines, tax deadline adjustments, and much more. Individuals may register at www.disasterassistance.gov. Public and not-for-profit entities may register using their previously established FEMA [Grants Portal account](#) or watch for information about how to initiate FEMA Public

Assistance program eligibility review.

- **Health Care Service Providers.** On [September 26](#), the Secretary of the Department of Health and Human Services (HHS) declared a Public Health Emergency for the State of Florida due to the impact of Hurricane Ian. The declaration, along with any additional waivers that may be issued, will give HHS Centers for Medicare & Medicaid Services (CMS) beneficiaries and their health care providers and suppliers greater flexibility in meeting emergency health needs. In declaring the [Public Health Emergency](#) and [authorizing flexibilities](#) for CMS beneficiaries, Secretary Becerra acted within his authority under the Public Health Service Act and Social Security Act. These actions and flexibilities are retroactive to September 23, 2022, for the State of Florida.
- **Insurance Coverage Awareness.** Impacted individuals and entities should contact their insurance provider(s) as soon as possible. Deadlines and procedures must be followed to protect any reimbursement or payments that might otherwise be owed to them.

For more information, please contact [Wendy Huff Ellard](#), [Michelle F. Zaltsberg](#), or any member of [Baker Donelson's Disaster Recovery and Government Services Team](#).