

# PUBLICATION

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## Top Ten Louisiana Tips for Hurricane Ida Recovery

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The extensive destruction left by Hurricane Ida is simply astonishing; the trail of impact from South Louisiana all the way through to New York and New Jersey is unprecedented. Recovery from the damage to infrastructure will take years; however, we recognize that right now emergency work is in full swing across Louisiana. The Federal Emergency Management Agency (FEMA) is a critical partner in this road to recovery for eligible applicants, but its programs can be daunting. It is critical that emergency work is done as quickly as possible; however, applicants can be taking considerable risks if they make program errors. FEMA can be very flexible during the emergency process but below are some tips to help ensure compliance with the Public Assistance Program.

### Are You Eligible?

First, before we provide those tips, it's important to determine if you are eligible. Most eligible applicants in Louisiana are intimately familiar with the FEMA Public Assistance Program after many years of storms. However, others in the private non-profit sector may not be as familiar.

State, Tribal and Local Governments are all eligible applicants. However, only certain Private Non-Profit (PNP) organizations are eligible. To be eligible for FEMA Public Assistance, a PNP must have a ruling letter from the IRS (dated pre-event) that grants tax exemption under 501(c), (d), or (e), or documentation from the state it is a non-revenue producing non-profit entity organized and doing business under state law. Furthermore, for a PNP to be eligible, it must provide a "critical" service under FEMA's rules such as education, utility, emergency or medical, or provide a "noncritical, but essential social service to the general public." Additionally, a big change since Hurricane Katrina is eligibility for houses of worship. Houses of worship are now considered eligible noncritical providers of essential social services.

In case of doubt, PNPs should always apply for assistance by submitting a Request for Public Assistance to the Governor's Office of Homeland Security and Emergency Preparedness (GOHSEP) at [LouisianaPA.com](https://LouisianaPA.com).

Note – ALL potentially eligible applicants that may be interested in filing for FEMA Public Assistance for Hurricane Ida must submit a Request for Public Assistance by the applicable deadline. **The current deadline to file this critical (but simple) document is Tuesday, September 28, 2021**, or 30 days from the declaration date, which was August 29, 2021.

## TOP TEN TIPS

**1. Document, Document, Document.** There is never too much documentation for FEMA. Take pictures of your damage, find photos of your facility before the storm, pull maintenance records, and keep a daily journal during recovery of who you talked to and why you do the things you are doing. If you get donations or volunteers to help clean out the damage, keep a record of all details (who, what, when, where, why). All of this will be critical to receiving the maximum amount of funding possible.

**2. Insurance.** First, FEMA requires you take commercially reasonable efforts to obtain all available proceeds from your insurance carriers. Ensure that you do everything you can to get your maximum benefit (and keep

the documentation to prove it). FEMA will reimburse costs associated with obtaining the maximum settlement. Second, try to get your ultimate insurance settlement to have as much detail as possible. FEMA deducts insurance proceeds from FEMA awards (to prevent a duplication of benefits); however, some things that your insurance may pay as part of your policy, such as business interruption, are not FEMA eligible. Thus, if your settlement clearly delineates such an ineligible line item, FEMA will not deduct that amount from the ultimate FEMA award.

**3. Get Help.** FEMA reimburses applicants for assistance they receive to understand and correctly use the Public Assistance Program (called Management Costs.) Basically, FEMA provides applicants an allocation of up to five percent of their ultimate project costs in ADDITION to their awards in order to help applicants receive and use their awards appropriately. It's a use-or-lose situation, so it's wise to seek help to support your award and mitigate risks that FEMA may deny or retroactively deobligate funding. In addition to the Management Costs, the applicable state-level grantee, or recipient, is an invaluable resource. In Louisiana, this is GOHSEP. Its website – [LouisianaPA.com](http://LouisianaPA.com) – has numerous tools for old and new applicants. It also has contact information so applicants can directly contact experts at the state.

**4. Procurement.** During the emergency, FEMA is less strict on procurement rules; however, there are a couple of things that FEMA will not generally bend on, especially for local government and PNPs. First, make sure all of your contracts are in writing and include the required federal terms and provisions [here](#). If you have already signed contracts and have not included these clauses, get back in touch with your vendors now and add the clauses as an addendum. Second, do NOT use cost-plus-percentage-of-cost terms. Look at pricing sheets from vendors and ask them to change any percentage terms into flat rates. Third, if time allows, do your best to at least get a couple of quotes for significant costs. Fourth, emergency procurement is limited to your circumstances – do not rely on the state or federal blanket emergency declaration. The sooner you can move to full, or at least partial, competitive procurement, the better.

**5. Cost Reasonableness.** Even if you pay for something, FEMA may only reimburse what it determines as "reasonable." Applicants should constantly work to ensure they are paying reasonable rates – multiple quotes help with this.

**6. Avoid Conflicts of Interests.** Do not hire your relatives, your own company, or a company that may appear to have a conflict of interest with your entity.

**7. Do Your Own Damage Assessment Now.** It may take FEMA months before they are able to do in-person site assessments. By that time, you may have already remediated much of the damage. Detailed damage information is the foundation of your FEMA funding. FEMA is now able to accept applicant-provided damage information and documentation, which may expedite the process while capturing all damage data in a timely manner.

**8. Document Meetings, Advice, and Approvals.** When there are large events such as this, FEMA operates at an "all hands" level, utilizing the assistance of many contractors, staff from other regions, and even staff from other agencies as support for the immense work needed to address immediate response and recovery operations. When things begin to equalize, these additional staff resources return home and long-term staff take over. However, even these long-term staff tend to roll off or get called to handle different events. It is common to have numerous assigned FEMA representatives over the life of a Public Assistance claim. You will also meet many supervisors, task force leads, branch directors, officers, and analysts – make sure to keep records of everyone involved in your claims as well as any guidance, approvals, or directions you receive. If this information is given verbally, send a follow-up confirmation email with meeting minutes to all attendees so you have a record for your files. These records can be very helpful later!

**9. Know Your Resources.** There is so much information available for applicants, it can be overwhelming. In addition to the FEMA Contract Provisions Guide, we recommend starting with these documents as part of your toolbox:

- [FEMA Public Assistance Program and Policy Guide \(PAPPG\), Version 4](#)
- [FEMA Procurement Disaster Assistance Team \(PDAT\) Field Manual](#)
- [GOHSEP article – Preparing Your Organization for the Next Hurricane: Best Practices that Will Help Expedite Recovery](#)
- [FEMA Fact Sheet – Procurement Under Grants: Under Exigent or Emergency Circumstances](#)

**10. Do Not Take NO for an Answer.** Between insurance companies, contractors and FEMA, recovery can be overwhelming. Sometimes, even when FEMA has the best intentions, wrongful denials can occur. Your recovery is important, so always double check with either your retained grant manager or the state recipient (GOHSEP) to see if your denial may be an error. Sometimes, FEMA may just simply be missing a document. FEMA has an appeals process for a reason and many applicants use it with great success.

For more information on this or other recovery matters, please contact [Danielle Aymond](#) or [Wendy Ellard](#), or any member of Baker Donelson's [Disaster Recovery and Government Services Team](#).