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2026 FEMA Public Assistance Program Eligibility and Top Ten Tips to Protect Funding

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A historic, widespread, and long-lasting winter storm is in progress, bringing destructive ice and heavy snow from the Plains to the Midwest and Northeast. Forecasts indicate dangerous travel conditions for days, and parts of the South are seeing catastrophic ice accumulations with significant power outages and tree damage. On the heels of Winter Storm Fern is another quickly developing major winter event expected to hit the coastal South.

These events, and more, come at a time when there remains significant uncertainty about the current status and future of the Federal Emergency Management Agency (FEMA). As of January 25, FEMA has issued 12 emergency declarations but next steps remain uncertain. Even with the competing priorities and preferences, all seem to agree that the assistance provided by FEMA will be more restrictive going forward. As such, it is more important than ever to be diligent in these early days and do as much as possible to protect eligibility for funding assistance in the event that a federal major disaster declaration is issued.

Snow and Winter Storm Declarations Under FEMA's Public Assistance Program

First, it is important to understand what is likely to be declared and what the corresponding eligibility might include. Historically, FEMA's approval of funding related to snow events has been more limited than other natural disaster events. FEMA's guidance specifically provides that, for eligibility to be considered, the impacted state must request and be issued a major disaster declaration that must include a request for snow assistance as part of that declaration. However, the difficulty in getting such a declaration cannot be overstated – snow-related activities, including snow removal, de-icing, salting, snow dumps, and sanding of roads and other eligible facilities, is only an eligible emergency protective measure when a winter storm results in record or near-record snowfall.

However, all is not lost, as most of the impacts from storms like these are actually the result of the destruction and resulting response required as a result of ice. Falling, freezing, and accumulation of ice quickly causes treacherous roads, downed powerlines, and will likely overwhelm many types of infrastructure. It is these types of damages that can result in a major disaster declaration and activate FEMA's funding programs.

Eligible Applicant

State, Tribal and Local Governments are all eligible applicants under FEMA's Public Assistance (PA) Program. 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 confirming that it is a non-revenue producing non-profit entity organized and doing business under state law. Further, 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."

In case of doubt, PNPs should always apply for assistance by submitting a Request for Public Assistance to the applicable recipient or through **FEMA's Grants Portal** by the applicable deadline, which may be as soon as 30 days from the date a major declaration is issued.

Eligible Work

As FEMA's role in disaster response and recovery continues to evolve, we are seeing changes to major disaster declarations. Be mindful that FEMA may not declare all categories of work for all areas. There may also be varying federal cost shares that apply to time periods and types of work. It is critical that applicants understand what is declared and the eligibility implications.

Additionally, for eligible PNPs, emergency protective measures are generally limited to activities associated with preventing damage to an eligible facility and its contents. FEMA's position is generally that emergency services are the responsibility of the applicable public entities/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. However, when a PNP provides emergency services at the request of, and certified (e.g. in a written agreement or contract) by, the legally responsible public/government entity, FEMA provides PA funding through that government entity as the eligible applicant. In times of disaster, PNPs are critical and help will be provided when needed, but it's important to be sure to document the assistance requested and provided.

Finally, even with a decreased FEMA role or FEMA funding, many of the below tips are helpful for working with state partners and safekeeping funding that may become available from other federal sources or states.

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. FEMA requires you to take commercially reasonable efforts to obtain all available proceeds from your insurance carrier(s). 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. 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 should 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. Termed Management Costs, FEMA provides applicants an allocation of up to five percent of their ultimate project costs in ADDITION to their otherwise eligible funds 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 de-obligate funding.

4. Procurement. It is critical that applicants understand and comply with all applicable procurement and contracting requirements. Do NOT assume FEMA will accept all costs incurred pursuant to an emergency contract. See [FEMA Fact Sheet - Procurement Under Grants: Under Exigent or Emergency Circumstances](#)

For the requirements. If you have already signed contracts and have not included the required federal terms and provisions, get in touch with vendors now to discuss amending contracts as necessary. 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. Document the circumstances present, any research done and considerations, and all discussion of rates, capacity, and terms. Finally, 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. FEMA will only reimburse what it determines as the "reasonable" cost of eligible work. Applicants should constantly work to ensure they are paying reasonable rates – multiple quotes help with this.

6. Avoid Conflicts of Interest. 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. Especially with an event of this scale, and considering FEMA is responding with a decreased workforce, 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. Even before the recent FEMA staffing changes, 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.

9. Utilize Available Resources. FEMA provides a great deal of information to assist in eligibility, especially with respect to compliance with the applicable procurement and contracting requirements. We recommend starting with these documents as part of your toolbox:

- [FEMA Public Assistance Program and Policy Guide \(PAPPG\), Version 5](#)
- [FEMA Procurement Under Grants Policy Guide, Version 2.1](#)
- [FEMA Roadmap to Procurement Compliance Checklist](#)
- [FEMA Contract Provisions Guide](#)

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 applicable recipient to see if your denial may be an error. FEMA has an appeals process for a reason, and many applicants use it with great success. Find more information on the available options and our best practices [here](#).

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