



Hurricane Recovery Resources for Health Centers

Obtaining Federal Emergency Management Agency (FEMA) Funding for Damaged or Destroyed Facilities

Hurricane Harvey- Texas

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Prepared by



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Obtaining FEMA Funding for Temporary Relocation, Repair, and Replacement of Damaged or Destroyed Facilities

To assist health centers recovering from damage sustained as a result of Hurricane Harvey, Capital Link has prepared guidance for obtaining Federal Emergency Management Agency (FEMA) disaster aid. FEMA provides two general categories of disaster aid: (1) Individual Assistance and (2) Public Assistance. Community Health Centers are eligible for assistance under the *Public Assistance Program*, which normally covers 75% of the cost of relocation, emergency repair, and permanent restoration of projects (the state and/or applicant is responsible for the remaining 25%). However, it is important to note that facilities with a mix of eligible and ineligible activities (e.g., a clinic that has a commercial pharmacy in the building) are eligible if over 50 percent of the space is used for eligible activities. Benefits will be pro-rated. If less than 50 percent of the space or time is used for eligible activities, the facility is not eligible at all.¹

In the immediate aftermath of a disaster, FEMA concentrates on providing individual assistance to help affected residents pay for living expenses such as food and temporary housing, as well as debris removal and emergency repairs to make a dwelling usable. The public assistance process does not begin until *after* FEMA receives estimates of damage from state and local authorities. Then the agency announces an “Applicant’s Briefing” and invites entities intending to apply for benefits under the Public Assistance Program. The delay in initiating the public assistance process may be very short so health centers intending to apply for assistance should stay vigilant for announcements and be prepared for what the application process will require. A new website, <http://www.rebuildtexas.today/> is available for updates on Public Assistance, which health centers should closely monitor. On this site, there is an Operational Plan, which includes a map showing the counties for which Public Assistance is available. Disaster Recovery Centers (DRC) are setting up in affected counties and have information on FEMA’s Public Assistance grant programs and how to apply. A DRC locator can be found here, <http://asd.fema.gov/inter/locator/home.htm>.

I. Preparing to Apply

It is the health center applicant’s responsibility to demonstrate that claimed damages were caused by the declared event rather than by a failure of maintenance or some other avoidable

¹ FEMA Public Assistance Applicant’s Handbook https://www.fema.gov/media-library-data/20130726-1826-25045-9911/fema_publication_323_pa_applicant_s_handbook_3_1_10.pdf.

issue unrelated to the disaster. Applicants are also responsible for demonstrating that quantities claimed (e.g., lost or damaged inventory) are detailed and accurate.²

The key to success for a health center applicant throughout the process is *good documentation*. As soon as you can safely access a damaged site, take numerous photographs of the condition of the facilities, equipment, and supplies.

If you have not already done so, make it a health center policy to have a database of photographs of all facilities that is regularly updated and stored digitally off-site (preferably in the cloud).

It is also important to keep all receipts of any clean-up and repair expenditures from before the Public Assistance process was initiated, including work completed by employees (called “Force Account” labor). Note that facilities that support the health center’s critical services, such as administration buildings and parking garages, may also be eligible for FEMA Public Assistance provided that the space is dedicated to supporting the entity that provides the critical services. If these spaces are shared with non-qualifying users then the assistance may be proportionately reduced.

FEMA will generally provide funds to restore an eligible facility to its pre-disaster design, less the maximum amount of available insurance compensation. This latter point is important – be sure to have all your property/casualty insurance documents on hand and understand what is and what is not covered. FEMA assistance is considered “last dollars in,” meaning they seek to only cover what is *not* paid for by your insurance policies. Also note that a condition of receiving FEMA Public Assistance is that the health center needs to agree to secure (and maintain for the life of the purchased assets) standard private insurance coverage that is available for the area and type of business. Finally, FEMA will also pay for approved renovations that work to mitigate similar damage that might occur to the facility in the future from a similar disaster.

II. What’s the First Step in Working with FEMA?

In order to be eligible for FEMA funding, you must complete and submit a FEMA pre-application form called a **Request for Public Assistance Form (FF 90-49)** within 30 days of the declared disaster event (August 25, 2017 for Harvey). You can download the form here:

<https://www.fema.gov/media-library/assets/documents/10236>.

Complete and submit this pre-application form to the state Public Assistance Representative (unannounced as of 9-15-17) or bring the form to the Applicant’s Briefing (date and place are unannounced as of 9-15-17). Do not wait until you have identified all your damage before

² Judy Wolf, “Buildings and Equipment: Mastering One of the Most Complex Categories of Work,” *Disaster Recovery Today* 15, (2013). <https://adjustersinternational.com/publications/disaster-recovery-today/buildings-and-equipment/1/>

submitting your pre-application form – there will be time to complete damage estimates later. Be sure not to miss the deadline. FEMA provides a summary of this process here:

<https://www.fema.gov/media-library-data/1480346966803-b4c21669baccea8ef956fd7007d42c6/PA-application-process.pdf>

III. What Will FEMA Pay For?

The following summarizes some of the key issues and questions that may arise as your application moves through the process. For a more complete description of FEMA's policies and more details on the application process, it is essential that every applicant download a copy of the *Public Assistance Applicant Handbook*, which can be found here:

<https://www.fema.gov/media-library/assets/documents/25647>.

A. Temporary Facilities

Eligible temporary facilities may be leased, purchased, or constructed. The selected facility must be used to provide the eligible function to the same extent and manner as it was provided prior to the disaster. The selected facilities option must be reasonable, cost-effective, and temporary in nature. Generally, FEMA will not pay for temporary facilities beyond a six-month period, unless FEMA waives this requirement. For more information, see FEMA's Provision of Temporary Relocation Facilities (December 14, 2010) here: <https://www.fema.gov/media-library-data/ee5f27d078ec4418fc653076680d4f60/Temporary%20Facility%20Policy%2012-13-2010.pdf>.

B. Debris Removal

FEMA will pay for debris removal as long as it is completed within six months of the declared disaster.

C. Repair versus Replacement

FEMA will restore an eligible facility to its pre-disaster design. Restoration is divided into two categories: repair or replacement.

- If a facility is damaged to the point where the applicant thinks the facility should be replaced rather than repaired, a “50% rule” is applied:
 - a. If the repair cost-to-replacement cost is less than 50%, only the repair cost is eligible for funding.
 - b. If the repair-to-replacement costs are equal to or greater than 50%, the replacement cost is eligible.

- When a facility must be repaired or replaced, FEMA may pay for upgrades that are necessary to meet specific requirements of current codes and standards.
- FEMA retains a financial interest in any facility that its funds are used to repair/replace, and it has a right to recover a proportionate percentage of the facility's equity at disposition based on the percentage that FEMA's assistance comprised of the total repair/replacement costs.

IV. After Filing FEMA Form 90-49

After receiving FEMA Form 90-49), a FEMA Public Assistance Coordinator (PAC) (alternatively referred to as the “Program Delivery Coordinator”, or “PAC Crew Leader”) will contact the person identified on the form as the Applicant’s Authorized Agent to set up an initial meeting to orient you to the process and to begin filling out a Project Worksheet (PW). If it’s a small project, someone from the health center may be able to play the role of “Applicant’s Authorized Agent.” If it’s a larger project, you may need to hire someone to act as your Authorized Agent to oversee and coordinate the work of the architect, contractor, and/or construction manager.

To prove that you qualify as a Private Non-Profit (PNP) critical service, you will likely be asked to fill out a W-9 Tax ID Number form and provide a copy of your IRS Tax Exemption Certificate and Organization Charter or By-Laws.

You will also need to prove that:

- The damage is a direct result of the declared event;
- The damage that occurred can be tied directly to the declared event;
- The damage occurred within the designated disaster area;
- The damage was the applicant’s legal responsibility at the time of the disaster;
- With very few exceptions, the damage occurred at a facility in active use; and
- The damage is not within the specific authority of another Federal program.

While you are waiting for FEMA to contact you, you should prepare for the next steps in the process by gathering the following information:

- A list of work to be performed by location.
- A map indicating each facility site.
- Photographs and other evidence of facilities before and after the disaster, as required to document your claim for damage.
- Identify which individuals from your organization will be part of the project team and ensure that they can attend the kickoff meeting.

- A complete cost breakdown. You can use any nationally recognized Cost Estimating Format such as RS Means Quick Cost Indicator (<http://www.rsmeans.com/calculator/index.asp>).
- All the information the Public Assistance Coordinator needs to fill out the Project Worksheet at the kickoff meeting in order to expedite the funding process.
- Your insurance coverage data. FEMA will deduct from its reimbursement your insurance compensation and will require that in the future you obtain the maximum standard insurance coverage available for flood in your area.
- Determine if the site will be repaired by either “Force Account” (using your own labor forces and equipment—generally for small projects) or by contract (a more involved set of contract documents including drawings and specifications may be required for larger projects).
- Copies of local ordinances and codes.
- Be prepared to provide a statement of non-concurrence in the event that there is disagreement about your claim, which specifies why you disagree with a decision.
- A schedule of values for larger projects. You will need an itemized Construction Specification Institute (CSI) format engineer’s cost estimate with three hard bids from contractors after an architect has had time to prepare contract documents for them to bid on.

If you don’t have all the information at the kickoff meeting you can still send it to your state’s FEMA office later.

V. Other Important Items

A. Project Size:

To facilitate review, approval and funding, repair projects are divided by dollar amount into small and large projects. For most disasters, the majority of work consists of small projects. A small project is any eligible work, either emergency or permanent, costing between \$3,050 and \$121,800 and is adjusted annually by an inflation rate (ask your PAC what the current threshold is). The rules governing the processing of applications for Public Assistance under the maximum small project threshold amount are now referred to as “Simplified Procedures.”

Funding for small projects is based on the Federal Share: usually 75% of the approved estimate of eligible work. As the applicant, you are responsible for identifying all projects and are encouraged to provide your own scopes of work and cost estimates for small projects. Your PAC will explain the entire process during the initial meeting and will be available at any time to provide further assistance. One important distinction to understand between large and small projects is that for large projects, FEMA will adjust its assistance based on actual costs, but for small projects it will provide assistance based solely on the initial cost estimates.

Although you are responsible for identifying large projects, only the basic description of the project and a broad cost estimate is required. Large projects (those with damage costs over the threshold) will be formulated as a team effort with FEMA, the state, and your local representative as partners. Funding for large projects is based on actual costs to complete the eligible scope of work. The funding for each large project will be adjusted after all work is complete.

B. Improvements Beyond Pre-Disaster Specifications

Once the project's eligibility and scope of work have been established, FEMA will provide funds to restore an eligible facility to its pre-disaster design, less the maximum amount of standard insurance compensation for your area. However, FEMA recognizes that the repair or replacement of a building frequently triggers codes and standards requirements that have been put in place since the building was originally constructed. Thus, FEMA considers eligible those upgrades required to meet current reasonable codes and standards related to the facility's repair or replacement.

Eligible codes and standards include local, state, and Federal requirements related to repairs and/or new construction of facilities. The standard must be triggered by the damages; for example, if a particular upgrade is required for new construction, but not for repairs, it would only be eligible for FEMA funding if the facility was being replaced.

In the case of repairs, FEMA generally pays only for upgrades related directly to the portion of the facility damaged by the event, even if the repair activity triggers a code requirement that impacts the entire building (e.g., installation of a full facility sprinkler system when only a portion of the building was damaged) — unless the code was required based on the amount of repair, in which case it would be considered for funding.

C. Special Mold Considerations

It is the applicant's responsibility to take appropriate remediation action to prevent the spread of mold contamination — or, if this is not possible, to document and justify why reasonable measures were not taken (e.g., power outage, facility underwater, lack of access, insufficient resources). If the mold is a result of the declared event, the following may be eligible for reimbursement:

- Cost of mold sampling, both pre- and post-remediation (provided that evidence of mold contamination exists pre-remediation and the sampling reveals the presence of disaster-related mold).
- Costs to perform eligible remediation, either through force account or contract labor.³⁾

³ Judy Wolf, "Buildings and Equipment: Mastering One of the Most Complex Categories of Work," *Disaster Recovery Today* 15, (2013). <https://adjustersinternational.com/publications/disaster-recovery-today/buildings-and-equipment/1/>

D. Replacing Equipment and Supplies

As of September 2009, FEMA's policy on funding the replacement of damaged equipment, vehicles and supplies became more flexible, no longer limiting replacement to the same number of items of similar age, capacity, and condition, as previous policy had required. While funding is still capped at the cost to replace destroyed equipment, vehicles and supplies with the same number of items of approximately the same age, condition, and capacity that existed at the time of the disaster as determined using "blue book" values or similar price guides, applicants may now replace these items with ones for use for the same general purpose. (One simple, yet surprisingly common mistake to avoid in determining replacement costs: be sure the costs provided to FEMA are not based on the depreciated values kept by your accounting department, which are often significantly lower than market value.)

E. Role of Applicant's Agent

As discussed previously, on the FEMA 90-49 form you will need to designate an "Applicant's Agent" to act as your Project Manager. This person must be authorized by your organization to act as your official point of contact for the project with the FEMA Public Assistance Coordinator and will be responsible for working with the FEMA Public Assistance Coordinator to set up a kickoff meeting and fill out the Project Worksheet. The size and complexity of your project will determine the Applicant Agent's scope of work, but at a minimum your Agent will be responsible for:

- Coordination of damage inspection visits;
- Collection of supporting project documentation (see below for a description of the types of documentation you will need to collect);
- Submission of quarterly reports to the Governor's Authorized Representative (GAR);
- Ensuring project completion;
- Submitting final project reports to the GAR;
- Providing support for the final Project Audit (all claimed expenses are subject to audit);
- Providing final certification statement when all work is 100% complete as follows:
"This project is 100% complete. The State at its discretion may accept this project as final inspection on this project. This action will expedite project closeout and funding."

F. Project Administration and Documentation of the Work

Your agent (and/or the architect and contractor for larger projects) will be responsible for maintaining documentation regarding force account labor, equipment, material, and supplies (for smaller projects) and the contracting process for larger projects, including obtaining competitive bids, prior approval by FEMA, and inspection of the work. At a minimum, you will need to ensure the following:

- Work must be documented by proper record keeping and photographs/sketches.

- A working file system must be established. Important items include: equipment logs and time records, invoices and check numbers for all purchases, rental equipment utilization records, copies of all contracts, and bids.
- Force account labor must be on your payroll, and the payroll must show the pay period, the employee name and job classification, the number of hours worked each day, the total hours worked for the pay period, the rate of pay for both regular and overtime hours, the paycheck number, and total earnings.
- Force account equipment must be documented as owned or rented indicating the type and description, the date used, the number of hours used each day, the total hours used, the rate per hour, and a copy of the contract or rental agreement.

G. Project Time Limits

FEMA will require that projects begin in a timely manner and reach completion within relatively short time frames, as follows:

- Debris removal: 6 months
- Emergency Work: 6 months
- Permanent Work: 18 months

Costs incurred after completion deadlines may be questioned. The applicant's agent is responsible for monitoring the work and complying with the deadlines. S/he should notify FEMA immediately if a time extension may be required.

H. Insurance Issues

For an insurable facility located in a special flood hazard area that incurs damage from a declared disaster and is not covered by flood insurance, the Stafford Act requires that the Federal assistance that would otherwise be available for restoring this facility be reduced by the maximum amount of insurance that would have been available if the facility had been covered by flood insurance, or the value of the facility at the time of the disaster, whichever is less. The maximum amount of National Flood Insurance Program coverage for commercial properties is currently \$500,000 per building and \$500,000 for contents—for a total potential reduction in FEMA Public Assistance funding on an uninsured facility of \$1 million.

Applicants must, as a condition for receiving Public Assistance funding for permanent work, obtain and maintain insurance on the impacted and funded facility for (at minimum) the amount of the estimated eligible damages and type of hazard that caused them. Failure to obtain and maintain insurance (in perpetuity) in the amount and of the type required will result in that facility being ineligible to receive any future federal disaster relief funding. This is true regardless of how much or how little funding is involved – obtain insurance for projects with funding from \$5,000 up.

I. Changing Regulations and Procedures

Applicants should be aware that FEMA is undergoing a large scale change in the administration of its Public Assistance program. This may result in some confusion as new procedures and terminologies are adopted. The changes described in the new Policy Guide are being executed in stages through early 2018, so it is possible that FEMA staff and state officials may not be completely familiar with all of them. Health centers seeking public assistance may need to be extra diligent and extra patient during this process.

VI. Critical Contact Information

Texas

Texas Division of Emergency Management
5805 N. Lamar
Austin, Texas 78752
(512) 424-2138
(512) 424-2444 or 7160
FAX <http://www.txdps.state.tx.us/dem/>

Louisiana

The Governor of Louisiana declared a State of Emergency on August 24th but as of this date, the federal government has not declared a state of emergency for any Louisiana counties. Should this change, the FEMA guidelines discussed herein would apply in those areas. Louisiana health centers with questions regarding available assistance, if any, should contact the **Governor's Office of Homeland Security and Emergency Preparedness (GOHSEP)** (<http://gohsep.la.gov/ABOUT/OVERVIEW>) Main Phone: (225) 925-7500.

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About Capital Link

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