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## **PUBLIC ASSISTANCE PROGRAM**

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### **FACT SHEET: INSURANCE CONSIDERATIONS FOR APPLICANTS**

Insurance is an important element of the Public Assistance Program. Our intent with this Fact Sheet is to highlight for you, the Applicant, insurance considerations that will influence your Public Assistance grant.

Three key provisions in the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended, (Stafford Act) guide our insurance policies and procedures:

- 1. Insurance coverage must be subtracted from all applicable Public Assistance Grants in order to avoid duplicated financial assistance.** Disaster assistance will not be provided for damages or losses covered by insurance. Disaster assistance provided by FEMA is intended to supplement financial assistance from other sources. When Public Assistance funds are inadvertently duplicated, they must be returned to FEMA - (Stafford Act, Section 312).
- 2. Insurance must be obtained and maintained on those insurable facilities (buildings, equipment, contents, and vehicles)** for which Public Assistance grant funding has been provided (Stafford Act, Section 311). Prior to the approval of a Public Assistance grant for repair, restoration, and replacement of damaged facilities, the Applicant must commit to obtain and maintain insurance to protect against future loss to such property from the types of hazard which caused the disaster. No Federal assistance will be provided for any facility for which the Applicant has previously received Federal assistance, unless all insurance required as a condition for that assistance has been obtained and maintained.
- 3. A reduction of Public Assistance funding for flood losses in the Special Flood Hazard Area (SFHA) is required** (Stafford Act, Section 406(d)). If an eligible insurable facility damaged by flooding is located in a SFHA that has been identified for more than one year by the Director and the facility is not covered (or is underinsured) by flood insurance on the date of such flooding, FEMA is required to reduce Federal disaster assistance by the *maximum* amount of insurance proceeds that would have been received had the buildings and contents been fully covered under a National Flood Insurance Program (NFIP) standard flood insurance policy.

#### **You, the Applicant, Need to:**

- Identify all insurable facilities, and the type and amount of coverage (including deductibles and policy limits) for each. The anticipated insurance proceeds will be deducted from the total eligible damages to the facilities.

- Identify all facilities that have previously received Federal disaster assistance for which insurance was required. Determine if insurance has been maintained. *A failure to maintain the required insurance for the hazard that caused the disaster will render the facility ineligible for Public Assistance funding.*
- Provide all pertinent insurance information (policies, declarations and “Statements of Loss”) to the State Public Assistance Officer as soon as possible.
- Pursue payment under your insurance policies to maximize potential benefits, thereby avoiding risk of delays or loss of Federal Assistance.
- Identify all buildings, contents, building attachments, detached garages, etc. located in the SFHA. Structures and contents insurable under the NFIP, located in the SFHA, as shown on a FEMA Flood Insurance Rate Map, and damaged by flood are subject to a special reduction from the eligible amount of Public Assistance funding. If these insurable items do not have flood insurance or carry inadequate flood insurance, FEMA will reduce the total eligible costs by the maximum amount of insurance proceeds which would have been received had the building and its contents been fully covered by a standard flood insurance policy.

**Further, You Need to be Aware of the Following:**

- You *must* obtain and maintain insurance to cover your facility – buildings, equipment, contents, and vehicles – for the hazard that caused the damage in order to receive Public Assistance funding. Such coverage must, at a minimum, be in the amount of the eligible project costs. FEMA will not provide assistance for that facility in future disasters if the requirement to purchase insurance is not met.
- Your commitment to purchase and maintain insurance must be documented (by an insurance policy or binder) and submitted to FEMA **before** project approval.
- You must assure FEMA that you will consistently maintain insurance coverage for the anticipated life of the restorative work of the insured facility. Otherwise, you are ineligible for Federal assistance for that facility. There should be no lapse in insurance coverage for a facility which previously received assistance.
- You are exempt from this requirement for projects where the total eligible damage is less than \$5,000.

**“Frequently Asked Questions”**

**1. Are there pre-disaster insurance requirements for facilities that have not had any prior disaster assistance?**

Only for flood hazards located in the SFHA, otherwise, no. State, local Governments, and private nonprofit organizations are not required to purchase insurance for non-flood risks prior to a disaster. Note that, Section 406 (d) reductions will apply to the facilities located in the SFHA.

**2. If the Applicant had insurance but certain items are not covered, will the Public Assistance Program provide funding for these items?**

Any eligible work not covered by an insurance policy may be eligible for a Public Assistance grant, including non-recoverable depreciation and items exceeding the policy limit.

**3. Does the Public Assistance Program fund deductibles?**

Yes, FEMA deducts the total insurance proceeds received or anticipated from the total cost of the project. The remaining amount is reimbursed, which usually includes deductibles, non-recoverable costs, or uninsurable losses. If the insurance policy covers both eligible costs, such as property coverage, and ineligible costs, such as business interruption coverage, then reimbursement for the deductible will be reasonably prorated based on the insurance settlement.

**4. What facilities or items require the purchase of insurance as a condition of receiving Public Assistance funding from FEMA?**

Buildings, contents, vehicles, and equipment.

**5. Does the post-disaster insurance purchase requirement apply to a building which is outside of the Special Flood Hazard Area and damaged by flooding?**

Yes. Prior to the approval of a Public Assistance grant, the Applicant must commit to obtain and maintain insurance to protect against future loss of a property whether the property is inside or outside the SFHA. No Federal assistance will be provided for any facility for which the Applicant has previously received Federal assistance, unless all insurance required as a condition for that assistance has been obtained and maintained.

**6. Can self-insurance be used to satisfy the insurance purchase requirement?**

For the purposes of the Public Assistance Program, self-insurance is an option only for States. Local governments and eligible private non-profit organizations may not satisfy the insurance purchase requirement with self-insurance.

**7. What if the Applicant cannot obtain insurance because the facility was destroyed by the disaster?**

When a facility is damaged beyond the point of repair, and funding is needed for replacement of the damaged facility, an insurance commitment letter must be submitted by an Applicant to document the outstanding insurance requirement for the replacement facility. The Applicant must provide proof of insurance to the State, as soon as possible, after the insurance is purchased. A project cannot be closed out without proof of purchase (either through policy or binder) of required insurance coverage.

**8. Can the insurance requirements be waived?**

If the State Insurance Commissioner certifies that the type and extent of insurance is not reasonably available, the Regional Director may waive the requirement in conformity with the certification.

**9. What if an Applicant does not maintain insurance on a facility as required by the Stafford Act?**

The facility is ineligible for Federal disaster assistance under the Public Assistance Program.

**10. What if an Applicant has maintained insurance on a facility as required by the Stafford Act, but finds its insurer to be insolvent and unable to pay?**

The Applicant will not be penalized for the failure of the insurer. FEMA will fund all eligible costs. However, the Applicant will be expected to take appropriate measures to recover payments owed by the insurer.

**11. What if the Applicant removes debris from private property and the property owner has insurance?**

The Public Assistance Program may fund disaster related debris removal from private property if it is pre-approved by FEMA. The debris must be considered a public health and safety hazard to the general public. If the private property owner's insurance policy provides coverage for some or all of the debris removal, then the property owner must recover funds from their insurance provider and forward them to the Applicant. FEMA may reasonably anticipate these recoveries from the private property owner and deduct anticipated proceeds from the overall project to avoid a duplication of benefits, which is prohibited under the Stafford Act (Section 312).

**12. If a building has eligible flood damages which are greater than the maximum NFIP policy amount, is there a requirement to purchase insurance beyond the NFIP maximum?**

Yes. Regardless of the NFIP maximum policy amount (currently \$500,000), insurance is required at least up to the amount of eligible damage. Commercial flood insurance policies are readily available for this excess coverage.

**Additional Information:**

Public Assistance Program information is available on our website at [www.FEMA.gov/r-n-r/pa](http://www.FEMA.gov/r-n-r/pa)

Detailed information on the insurance implications of the Public Assistance Program can be found in the following publications:

- Stafford Act (Sections 311, 312, 406(d))
- 44 CFR Part 206, Subpart I - Insurance Requirements
- Public Assistance Guide (FEMA 322, October 1999); pages 94 – 98
- Public Assistance Policy Digest (FEMA 321, October 1998); pages 31, 48 & 64
- Public Assistance Applicant Handbook (FEMA 323, September 1999); pages 58-60