



FEMA

RECOVERY POLICY

RP9523.3

I. TITLE: **Provision of Temporary Relocation Facilities**

II. DATE: December 14, 2010

III. PURPOSE:

This policy provides guidance on determining eligibility for and duration of a temporary facility under the FEMA Public Assistance Program.

IV. SCOPE AND AUDIENCE:

This policy is applicable to all major disasters and emergencies declared on or after the date of its publication. It is intended for personnel involved in the administration of the Public Assistance Program.

V. AUTHORITY:

Section 403 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act), 42 U.S.C. 5170b, and implementing regulations of 44 CFR parts 206.

VI. BACKGROUND:

As a result of major disasters and emergencies, services provided at public and private nonprofit (PNP) facilities may be disrupted to the extent that they cannot continue unless they are temporarily relocated to another facility. Applicants may request temporary facilities to continue that service.

Section 403 of the Stafford Act authorizes FEMA to provide Federal assistance to meet immediate threats to life and property resulting from a major disaster. Specifically, Section 403 (a)(3)(D) allows for the provision of temporary facilities for schools and other essential community services, when it is related to saving lives and protecting and preserving property or public health and safety.

VII. POLICY:

A. Eligibility: Eligible applicants can be State, local or Tribal governments, or PNP organizations or institutions which provide essential community services. Essential community services are those services performed by governmental entities or PNPs, which are necessary to save lives, or to protect and preserve property or public health and safety.



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1. Eligible public facilities include facilities for police, fire protection/emergency services, medical care, education, libraries, utilities and other essential community services. State or local government administrative and support facilities essential to the operation of such facilities are also eligible.

2. PNP facilities eligible for temporary facilities include: fire protection/emergency services, medical care, education, utilities, child care facilities, alcohol and drug rehabilitation facilities, custodial care, homeless shelters, libraries and other facilities that provide health and safety services of a governmental nature. Ancillary facilities may also be eligible, such as administration buildings and hospital laundry facilities.

3. Facilities ineligible for temporary facilities include museums, zoos, community centers, shelter workshops, and performing arts centers. These facilities are ineligible for funding because disruption of service at these facilities will not result in an increased threat to life and property, or public health and safety. In addition, recreation and parking facilities, athletic stadiums, research and warehouse facilities, and student union buildings are not considered to provide essential community services, and therefore are not eligible.

4. If an applicant has a facility that does not meet the eligibility requirements for a temporary facility, Public Assistance may reimburse for temporary space to store and protect property if the facility's damage is to such an extent that the contents of the facility are at risk. The temporary storage space is limited to an area necessary to house the contents. This space is not intended for public access, alternate office space, exhibits, or other purposes; it is solely for storage. The temporary storage space is limited by the time needed to complete the permanent work required for repair/replacement of the damaged facility. FEMA is not responsible for any damage which may occur to the contents in temporary storage. The applicant should insure the contents of its temporary storage space.

B. Basis for Temporary Facilities: The following should be considered when determining eligibility for a temporary facility:

1. If the facility was damaged by the disaster, but can be used if emergency protective measures or minor repairs can be performed quickly, a temporary facility may not be necessary.

2. If the facility was damaged by the disaster to the extent that it cannot be occupied safely, and restoration cannot be completed without suspending operations of the facility for an unacceptable period of time, then a temporary facility may be needed. This may be necessary during either repair or replacement of the damaged facility.



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3. If the facility was not damaged by the disaster but lacks a critical utility or operational item (such as potable water, electricity, or road access) and a temporary facility would restore services to the community more quickly than awaiting restoration of the disrupted vital utility at the current site, then a temporary facility may be necessary.

4. The capacity of temporary facilities must not exceed the pre-disaster capacity of the facility that housed the displaced services.

C. Time Limitations for Temporary Facilities:

1. The period of time for which temporary facility assistance may be provided is usually six months, based on the regulatory time limitation for the completion of emergency work (44 CFR § 206.204 (c)(1)) **Deadlines**. However, the time period provided in the initial Project Worksheet (PW) for completion of eligible permanent work may be longer and, where appropriate, the time limitations for temporary facility assistance will be established according to the particular requirements of the restoration project.

2. FEMA may provide a time estimate of no more than 12 months in the initial PW's scope of work prepared for the temporary facility.

3. Applicants should submit requests for time extensions through the Governor's Authorized Representative (GAR) for FEMA approval. Consistent with the requirements of 44 CFR § 206.204(c)(2)(ii) and (d), the GAR may recommend to the FEMA Regional Administrator a time extension of the project completion deadline based on information provided by the applicant, that is: 1) circumstances beyond the control of the applicant that prevented the completion of the reconstruction project within the initial time limit, 2) status of permanent restorative work (work completed and work to be completed), and 3) revised timeline for project completion. FEMA may not grant extensions without the above documentation.

Generally, in order for FEMA to consider an extension, construction must have begun within 12 months of the date of the major disaster declaration. FEMA may grant extensions in situations where, because of circumstances beyond the control of the applicant, construction did not begin within 12 months of the date of declaration.

4. With the proper documentation, FEMA may grant extensions for the projected duration of the construction work, based upon industry standards (e.g., from R.S. Means or equivalent source), and a revision should be made to the initial scope of work that funded the temporary facility.



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D. Applicant's Options for Temporary Facilities:

Applicants may lease, purchase, or construct eligible temporary facilities. Applicants must use the selected facility to provide the eligible function to the same extent and manner as it was provided prior to the major disaster or emergency. Whichever option is selected, it must be reasonable, cost-effective, and temporary in nature. FEMA will not mandate that the applicant pursue a specific option for a temporary facility, but FEMA will fund only the most cost effective option. FEMA will not fund utilities (power, water, heat, etc.), maintenance, or operating costs, nor will FEMA fund the differential should these costs increase. FEMA will use the following considerations in making a determination on whether to fund a temporary facility.

1. Cost Comparison. Based on the preferred alternative, the applicant must supply FEMA with information sufficiently detailed so that a cost comparison can be made by FEMA. This information should consist of at least three proposals that include cost estimates. FEMA will review the estimates and perform a cost comparison to identify the most cost-effective option.

2. Renting/Leasing Option. When it is the most-cost effective option, the Applicant can receive Federal disaster assistance from FEMA for the rent of a temporary facility during the eligible time period.

3. Purchase/Construction Option. Costs associated with the purchase/construction of a facility to which an applicant will temporarily relocate may be eligible for FEMA assistance if FEMA confirms that it is the most cost-effective option.

a. With the exception of modular or manufactured units, all proposed purchase/construction options should be submitted in advance to the Assistant Administrator of the Recovery Directorate for review and approval. Before approving a proposal, FEMA may determine whether it is in the best interest of the federal government to impose conditions on the applicant's use and/or disposition of the facility.

b. Pursuant to 44 CFR Part 13.31 (c)(1) and (2) and Office of Management and Budget Circular A-110, FEMA must be compensated when the authorized temporary relocation time period has ended or the facility is no longer needed by the applicant for the authorized temporary relocation purpose (i.e., the approved scope of work), whichever occurs first. The Applicant may choose to retain the title of the facility or sell it.

1. Whether an Applicant chooses to retain the title of the facility or sell it, as a general rule, if FEMA has paid only a portion of the cost of the facility, FEMA shall be entitled to



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compensation in an amount equal to FEMA's proportionate equity in the facility. The amount due FEMA will be computed by applying FEMA's percentage of participation in the cost of the purchase/construction to the fair market value or sale proceeds taking into consideration reasonable out-of-pocket costs related to the sale. If an Applicant chooses to dispose real property acquired with Federal funding provided by FEMA and acquires replacement real property under the same funding, the net proceeds of the sale may be used to offset the cost of the replacement property.

E. Insurance:

1. FEMA requires an Applicant to maintain insurance for any insurable temporary facility, either purchased, leased (as appropriate) or built, for which Federal funding is provided. This is also applicable to insurable contents. This is the applicant's responsibility and is not a reimbursable expense under FEMA guidelines.

2. Some insurance policies provide funds for temporary relocation. FEMA will make appropriate adjustments to the PW to reflect the applicant's insurance coverage; thus ensuring that there is no duplication of benefit.

F. Eligible and Ineligible Costs

1. Relocation costs. These are costs associated with the transfer of the eligible pre-disaster service, including equipment and supplies, and costs for necessary modifications to the temporary facility. The allowable costs associated with the provision of temporary facilities include:

a. Reasonable alterations of the temporary facility if they are required to make the space functional and meet the pre-disaster needs of the applicant.

b. Moving expenses to and from the temporary facility.

c. If an applicant uses force account labor and/or equipment to relocate to a temporary facility, the eligibility for straight and overtime labor costs and equipment costs are based on the provisions of 44 CFR § 206.228) **Allowable Costs for emergency work.**

d. Minimal life safety or other building upgrades required by an applicable State or local code or standard in effect at the time the temporary facility is acquired (by purchase or lease). For example, a "change in use" could trigger the need for such work.



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2. Alternate Projects. Applicants may not apply funds approved for temporary facilities to an alternate project defined by 44 CFR § 206.203(d) (2) **Federal Grant Assistance**. Once an Applicant decides to pursue an alternate project, additional funding for temporary relocation facilities is not eligible. FEMA will not reduce or de-obligate funding for the cost of temporary relocation facilities incurred prior to the date on which the applicant requests an alternate project.

3. Improved Projects. For improved projects [CFR § 206.203(d) (1)] **Federal Grant Assistance**, temporary facilities are eligible; however, there are funding limitations. If an applicant chooses to incorporate improvements into the repair of disaster damages or to expand the pre-disaster capacity of a damaged facility, a temporary facility is eligible only during the time estimated as necessary to perform the approved scope of repair or replacement work. Funding of a temporary facility will not be based on the total amount of time necessary to complete the improved project.

4. Increase in Rental Costs. Applicants that perform essential services in leased facilities may have to temporarily relocate to another leased facility as a result of the major disaster or emergency. FEMA considers the pre-disaster rental cost a fixed commitment made by the applicant before the disaster and the increase in rental costs a direct result of the disaster, thus, the differential is eligible for FEMA assistance, subject to eligibility requirements in Section VII A and B above.

VIII. ORIGINATING OFFICE: Recovery Directorate (Public Assistance Division)

IX. SUPERSESSION: This policy supersedes Recovery Policy 9523.3, "*Provision of Temporary Relocation Facilities*" dated July 16, 1998, and any other previous guidance on this issue.

X. REVIEW DATE: This policy does not automatically expire, but will be reviewed three years from date of publication.

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Recovery Directorate