



## Be Ready for the Next Disaster – and the Public Assistance Process!

**Understanding these standard operating procedures and being proactive with required documentation will help expedite your recovery.**

*By Skip Cerminaro*

In 2013, the president declared 95 disasters — 62 major disasters, five emergency disasters and 28 fire disasters. They were the result of but not limited to earthquakes, hurricanes, tropical and heavy storms, tornados, snow, ice and wild fires. All resulted in public entities being stressed beyond their capabilities to respond and recover.

This might seem like a lot, but in 2011 there were 242 *such declarations* — including 95 major disasters, 29 emergency

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## Public Assistance Key to Disaster Recovery

Natural disasters have become so widespread in recent years that they can be second-page news. While their frequency might dull our sensitivity to them, more importantly, they should be a wake-up call that *now* is the time to prepare for these events and to have a plan for recovering from the devastation they cause.

In the United States, FEMA's Public Assistance Program plays a major role in bringing about recovery for our communities. But as Skip Cerminaro of Adjusters International explains, deriving full benefit from the program as quickly as possible starts with understanding its key operating procedures and documentation requirements.

We believe you will find his article to be informative and a helpful first step in preparing now to recover if and when a disaster strikes.



declarations and 114 fire declarations — the most in 60 years. You can imagine the number of public entities that have been affected by the changing weather patterns many areas have been experiencing. While some regions might be prone to certain types of disasters, a lesson to be learned is that no one is completely immune from being affected by some sort of disaster, whether it is nature driven or man-made. The best way to recover from a catastrophic occurrence is by being prepared to the best of your ability.



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## **Responsibility**

After a disaster strikes, it is the local community's responsibility to respond. If that is beyond their capabilities, the state may be called in to provide assistance. If this collaboration falls short of adequately responding to the disaster, the state can request assistance from the federal government.

Fortunately, our federal government — by authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, Public Law 93-288, as amended, 42 U.S.C. 5121-5206 — provides assistance through the Federal Emergency Management Agency (FEMA), a component of the Department of Homeland Security. State, local and tribal governments and certain types of private nonprofit organizations (PNPs) are eligible to receive federal grants through the Public Assistance (PA) Program that FEMA implements.

Once the president declares a major or emergency disaster for a specific location, FEMA — in coordination with the state or “grantee” (recipient) — will arrive to work with the eligible local and tribal governments and PNPs or “sub-grantees” (sub-recipients) to implement the Public Assistance Program. Following their standard operating procedures, FEMA and the state will conduct informational meetings and assign Public Assistance personnel to work with the affected entities to aid them in submitting grants to recover their costs in responding to the disaster — and rebuilding to become whole again. The Public Assistance Program is complicated and it includes guidelines to insure that the funding needed by



a devastated community will arrive in a timely manner. FEMA and state PA personnel will coordinate efforts with the authorized representative of the eligible applicant or “sub grantee” via a kickoff meeting to jumpstart the process. These PA personnel will likely be working with various department supervisors and other personnel to conduct site visits of damaged areas and subsequently develop Project Worksheets (PW) that are the formal grant requests for funds.

Advance knowledge of the PA Program can go a long way in expediting the process. However, a thorough understanding is usually lacking. Local officials have enough on their plate meeting the demands of their everyday duties. Becoming proficient in the PA Program is not always a priority to department heads and supervisors. That being said, there are standard operating procedures (SOPs) that local government departments can adopt and implement in preparation for a disaster. These SOPs will help expedite the PA process and secure funds when FEMA arrives following a disaster declaration.

#### **Affected Departments**

Many departments within a government entity will be affected by a disaster. Let’s identify some of the most likely.

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First responders to a disaster event are usually community safety departments such as police, fire, medical and public works. Police, fire and medical teams might conduct search and rescue operations, oversee evacuation measures, do sandbagging, supply security forces, provide emergency medical care and initiate road closures. Public works crews might also assist with emergency protective measures, as well as oversee repairs to roads, bridges and other government infrastructure.

Facilities departments will be involved in many types of repairs. Parks and recreation personnel will respond to damages to the affected properties. Departments of health and social services may be involved in

evacuations and establishing temporary shelters. The information technology (IT) department could be called upon to install emergency communication systems.

Keep in mind that at the onset of an occurrence — whether man-made or natural — it won't be immediately known if the event will develop into a large enough catastrophe warranting a presidential declaration and federal intervention. Department heads and supervisors will need to be able to differentiate between a manageable occurrence and one that has the potential to escalate.

Once an occurrence does become a declared disaster, the likelihood of a community being able to obtain eligible funding in a timely manner will be contingent upon its ability to accurately and expeditiously document costs incurred for equipment use, rented equipment, labor, materials, etc., and if applicable, mutual aid and donated services.

### Accounting for Disaster-Related Costs

It is important that the system a department utilizes to track work orders for labor, equipment usage and materials be able to differentiate between eligible disaster work and normal duties. These systems can range from simplified handwritten work orders and time cards, to sophisticated computer software programs. Whatever system is implemented, it is very important to be able to track all disaster-related labor, equipment, materials, etc., by date and hours. This can be done by attaching a coded work description.

When a community incurs an extraordinary event, all work attributable to that event

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should be specifically identified. For instance, a special code can be assigned so all labor, equipment, materials, purchases and invoices, etc., that were utilized can easily be tracked and separated from normal day-to-day costs. For example, let's say a city is anticipating a severe storm with a chance of four to six inches of rainfall forecast to hit the area by late afternoon. During normal working hours the DPW road crews would be performing regularly scheduled maintenance and repair work. The daily work orders should have a specific code for this work that tracks the additional labor, equipment and any material used.

Once a disaster hits and crews are deployed in response to it, daily work orders can be coded with a specific number or similar description that correlates to disaster-related activity — tracking all labor, equipment and material usage. If the disaster evolves into a major catastrophe and eventually qualifies for a presidential declaration, the city has documentation that can easily be retrieved when it is time to prepare the PWs for grant submittal.

#### **Equipment Inventory for Disaster Usage Reimbursement**

One of the first steps a municipal department can take in preparation for a disaster is to have a current and complete inventory of their equipment. This should include the type, year, make, model, capacity (if applicable), engine horsepower (if applicable), unit identification number, length of blade (if applicable), load capacity (trailers), etc. An example might be: County # 102 — Dump Truck — 2010 — Ford F-350 — 8 cyl — 400 HP, etc. This will be very helpful when it comes time to formulate a PW that includes the use of the equipment.



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FEMA will apply a cost code based on an established national rate for the use of equipment that includes operation, fuel, insurance, depreciation and maintenance. Some applicants may have an established hourly rate for their equipment's usage. These local rates may be used, but FEMA will use the lower of the two rates unless it can be certified that the local rates do not reflect the actual rate — then the higher rate may be applied.

### **Labor**

One of the major obstacles in capturing labor costs is the fringe benefit calculation for personnel involved in the disaster response. Fringe benefits are eligible as long as they are part of the applicant's established policy before the disaster hits. Fringe benefit rates for both regular time and overtime should be calculated for each individual employee. FEMA may want to calculate an average rate to use for all employees of a municipality.

***“Work performed under contracts for eligible disaster-related projects must meet certain requirements to be considered for reimbursement under the Public Assistance Program.”***

Typically, most response work is done by hourly non-supervisory personnel who usually have a higher overall fringe benefit rate. Establishing an average rate

by including lower fringe rates of salaried supervisory personnel will result in a lower rate being attached to the majority of employees who accumulated the most eligible hours of work. For large applicants this may result in the loss of a significant amount of funding on large-scale disasters.

Union and labor contracts should be provided to FEMA. These contracts will identify such eligible expenses as shift differential pay, meals or other additional supplemental expenditures that should be included on a PW.

### **Inventory for Disaster Damage Reimbursement**

An updated inventory of equipment and supplies should be available at all times. Not only will this have budgeting benefits, but if a catastrophic event occurs in which buildings and contents are damaged or destroyed, the time saved in identifying and documenting these items will be diminished, ultimately speeding up the flow of much needed funds. This is especially important for buildings that may be located in Special Flood Hazard Areas (SFHA)<sup>1</sup> which are more likely to be affected by flooding.

Compiling a list of contents of a damaged building after a disaster can take months, especially if the only means of accounting for them is by memory. Without proper documentation, having these items included for replacement reimbursement can be very difficult. Having a room-by-room, up-to-date inventory list with purchase documentation readily available will solidify the authenticity of your claim and significantly shorten the time you will have to wait for funding.





### Picture is Worth 1,000 Words

Needless to say, damage descriptions have much greater impact when accompanied by pictures. When depicting the impact of a major event, it is ideal to include photos of conditions before the damage occurred if possible and even more important to provide pictures of the damages and the finished repairs. First responders should be equipped with inexpensive digital cameras and fresh batteries or cell phones capable of taking reliable photos. It is helpful to have the devices set to include a date stamp on each picture. When it comes time to formulate PWs for grant reimbursement, photos, along with the aforementioned preparations, will expedite the flow of eligible funding.

### Contracts

Work performed under contracts for eligible disaster-related projects must meet certain requirements to be considered for reimbursement under the Public Assistance Program. Contracts must be for reasonable

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costs, generally competitively bid, and must comply with federal, state and local procurement requirements<sup>2</sup>. A copy of the applicant's contract procurement policy must be readily available and provided to FEMA. FEMA considers four methods of procurement acceptable:

- ▶ **Small purchase procedures** — This is an informal method for securing services or supplies that do not cost more than \$150,000 by obtaining several quotes from different sources.
- ▶ **Sealed bids** — This is a formal method where bids are publicly advertised and solicited, and the contract is awarded to the lowest bidder (this is the preferred method for procuring construction contracts).
- ▶ **Competitive proposals** — This method is similar to sealed bid procurement, but contracts may be awarded on the basis of contractor qualifications instead of price (this is preferred for professional architectural or engineering contracts).

- ▶ **Non-competitive proposals** — This is a method whereby a proposal is received from only one source and one of the following apply: there is an urgent/emergency requirement that makes a bidding process not feasible; the item is available from only one source; FEMA authorizes a non-competitive proposal; or solicitation has been attempted and the competition is inadequate.

Non-competitive proposals that do not fall within these parameters and “piggyback” contracts are generally not eligible.

There are three types of contracts for which FEMA will provide reimbursement:

- ▶ **Lump sum** — This is a contract for work within a prescribed boundary with a clearly defined scope of work and total price.
- ▶ **Unit price** — This is a contract for work done on an item-by-item basis with cost determined per unit.
- ▶ **Cost plus a fixed fee** — These contracts are either lump sum or unit priced with a fixed contractor fee added into the price.



***“Contracts must be for reasonable costs, generally competitively bid, and must comply with federal, state and local procurement requirements.<sup>2</sup>”***



Time and materials contracts should be avoided, although FEMA may allow this type of contract for work that is necessary immediately after a disaster — when a clear scope of work cannot be developed. There may be instances when an immediate emergency contract must be awarded to stabilize a facility to prevent an imminent threat to the life, health or safety of the community, or reduce the threat of significant damage to improved public<sup>3</sup> or private property. This type of contract is normally allowed if reasonable, but once the threat has been eliminated and more time is needed to complete all disaster-related repairs, the remaining work must be put out to bid to comply with Public Assistance requirements. All work should stop until a new contract can be awarded. Cost-plus-percentage-of-cost contracts are not eligible.

Specific guidance on contracts can be found in FEMA's Field Manual — Procurement Guidance For Recipients And Subrecipients Under C.F.R. Part 200 (Uniform Rules) Supplement To The Public Assistance Procurement Disaster Assistance Team (PDAT).

### **Establishing a Benchmark**

A prerequisite for identifying and quantifying disaster-related damages is establishing a benchmark based on — what was the condition, capacity and function of the facility before the event occurred? Remember that the fundamental goal of the Public Assistance program is to return the facility to its pre-disaster condition, capacity and function — including adherence to applicable codes and standards in place at the time of the event.



This requires vigilantly keeping and updating maintenance records. Eligible items that should be monitored include: buildings; equipment that is non-expendable, costs \$5,000 or more and has a life expectancy of more than a year; vehicles; bridges; culverts; road systems, including drainage ditches and road surface maintenance; water control facilities; utilities; and recreational facilities.

***“A prerequisite for identifying and quantifying disaster-related damages is establishing a benchmark based on – what was the condition, capacity and function of the facility before the event occurred?”***

As discussed previously, before-and-after pictures greatly help the eligibility of a damaged facility. Incorporating this procedure in your routine maintenance records will solidify and expedite your retention of disaster funding.



### Identifying and Estimating Disaster-Related Damages

Standard operating procedures under FEMA's Public Assistance Program for providing grants in disasters are in constant flux. To streamline the process and lessen their administrative burden, FEMA, as

stewards of taxpayer resources, continually implements changes in how damage is identified and valued.

Initially, after the grantee requests federal intervention following an event, a joint FEMA, state and applicant Preliminary Damage Assessment (PDA) is conducted.

If all PA Program criteria are met and a declaration is granted, the first significant meeting with affected sub-grantees will be the applicant's briefing in which the state discusses the application process, administrative requirements, funding and PA Program eligibility criteria. The next step for the applicant is to submit a Request for Public Assistance (RPA). After review and approval of the RPA, a kickoff meeting (KOM) will be held which starts the assistance process for the applicant. The key deadlines identified at the KOM are<sup>4</sup>:

- Damaged facilities and emergency work must be identified and reported to FEMA within 60 days.
- If the applicant opts to prepare their PWs for small projects<sup>5</sup>, they are due within 60 days.
- All requests for alternate projects must be made within 12 months.

Typically, FEMA will require a comprehensive list of damages accompanied by corresponding estimates of expenditures and repairs. This information and documentation may be requested much earlier in the process, starting with the PDA and RPA. Be sure that all time spent on the documentation of each project is recorded by the person who develops the information. Most of this time is eligible



for reimbursement as either a project cost or direct administrative cost (DAC)<sup>6</sup>. Retaining an engineering firm through your contract procurement policy to detail the extent of work on all complex projects is advisable. Be prepared to establish a 30-, 60- and possibly a 90-day recovery plan in conjunction with FEMA and the state.

Here is the key documentation you should develop and maintain. You will need it early in your PA process and having it readily available will expedite your recovery:

- ▶ RPA
  - Drug-free workplace certification
  - Federal Tax ID form
  - DUNS number (Data Universal Number System. May be ascertained from Dun & Bradstreet);
- ▶ Full insurance policy;
- ▶ Labor contracts and pay policy;
- ▶ Fringe benefits;
- ▶ List of personnel including titles and pay rates;
- ▶ Contract bid procurement policy;
- ▶ Inventory of equipment/vehicles;
- ▶ Inventory of supplies;
- ▶ Maintenance records;
- ▶ Mutual aid agreements.

As your recovery progresses, FEMA is likely to request additional documentation specific to projects that develop in these categories. For example:

- ▶ Time cards showing personnel names, labor hours and equipment (with operator names) and hours used;
- ▶ Purchase orders and paid invoices for materials used;
- ▶ Contracts
  - Bid proposal/announcement
  - Bid responses
  - Awarded contract (signed)
  - Paid invoices;
- ▶ Rental equipment paid invoices and rental agreements;
- ▶ Maintenance records;
- ▶ Photos of damages (pre-damage if available, pre-repair and post-repair);
- ▶ Applicable permits;
- ▶ Applicable codes and standards, if triggered, and the resolution that formally adopted them.

### **Documentation is Critical**

Accurate and concise documentation is vital to obtaining and maximizing your Public Assistance program funding. Implementing these preemptive measures can make this sometimes daunting process flow more smoothly and quickly.

### **Consider the Possibility — and Be Prepared!**

Today, with disasters of many types being more widespread than ever, no organization is immune from being impacted by one. As you consider the possibility — beforehand and if you ever become an applicant in a declared disaster — remember to keep three questions in mind:

- 1 • What was your facility like before it was damaged?
- 2 • What will it take to bring it back to its pre-disaster condition?
- 3 • What do you want the facility to be after it is repaired? There are programs and policies that allow you to upgrade to mitigate damage from a similar disaster in the future.

***“Accurate and concise documentation is vital to obtaining and maximizing your Public Assistance program funding.”***

Equipped with this information and an understanding of what’s required to receive help through FEMA’s Public Assistance program, you will already be on the road to an optimum recovery.

<sup>1</sup>SFHA – An area having special flood, mudflow, or flood-related erosion hazards and shown on a Flood Hazard Boundary Map (FHBM) or Flood Insurance Rate Map (FIRM) as Zone A or Zone V: NFIP Flood Insurance Manual, Section 22, revised October 1, 2013.

<sup>2</sup><https://www.fema.gov/media-library/assets/documents/96773>.

<sup>3</sup>Improved property is any structure, facility, or item of equipment that was constructed, built, or manufactured. Land used for agricultural purposes is not improved property. 44 CFR § 206.221(d).

<sup>4</sup>Public Assistance Program and Policy Guide FP 104-009-2/January 2016, p. 125.

<sup>5</sup>For disasters declared post October 1, 2015, the small project minimum threshold is \$3,050 up to the large project threshold of \$121,800. New thresholds may be implemented for post October 1, 2016; declarations based on the annual Consumer Price Index (CPI) Adjustments.

<sup>6</sup>Direct Administrative Costs are costs incurred by the grantee or sub-grantee that can be identified separately and assigned to a specific project. Such costs can include staff’s time to conduct an initial inspection, prepare and submit a PW, collect and disseminate documentation, and make interim and final inspections of the project.

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