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Public Assistance Mitigation Cost Share Incentives Policy (Interim)

FEMA Policy FP-104-24-002

BACKGROUND

Under Section 406 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act), the President may provide financial assistance to eligible applicants for the repair, restoration, reconstruction, or replacement of an eligible facility damaged by a major disaster at a minimum Federal cost share of 75%.

The Bipartisan Budget Act of 2018¹ amended Section 406 of the Stafford Act to add the new provision 406(b)(3) authorizing FEMA's Public Assistance (PA) program to increase the minimum Federal cost share for measures that increase readiness for, and resilience from, a major disaster.²

This interim policy applies to PA-eligible applicants, including State, Local, Tribal and Territorial (SLTT) governments and certain private nonprofit (PNP) organizations, and implements Section 406(b)(3) by providing guidance regarding eligible measures that meet FEMA's criteria for the Federal cost share increase up to 85%.

PURPOSE

The purpose of this interim policy is to outline the requirements applicants must meet to receive an increase in the Federal cost share to better prepare for and recover from major disasters.

PRINCIPLES

By implementing Section 406(b)(3) of the Stafford Act, FEMA will:

- A. Incentivize communities to pursue and maximize hazard mitigation measures on PA projects.
- B. Help make communities less vulnerable to the loss of life and property from future disasters.
- C. Build a climate-resilient nation by enhancing disaster readiness and resilience nationwide and reducing losses from future events.

¹ Bipartisan Budget Act of 2018, Section 20606, <https://uscode.house.gov/statutes/pl/115/123.pdf>

² Robert T. Stafford Disaster Relief and Emergency Assistance Act, Public Law 93-288, as amended, 42 U.S.C. 5121 et seq., https://www.fema.gov/sites/default/files/documents/fema_stafford_act_2021_vol1.pdf.



- D. Implement this interim policy in a consistent and equitable manner through informed decision-making and review of an applicant's documentation.

REQUIREMENTS

A. APPLICABILITY

Outcome: Establish the applicability and parameters for implementation of the cost share increase as authorized by Section 406(b)(3) of the Stafford Act.

1. This interim policy applies to PA Permanent Work projects funded under major disasters declared on or after the date of issuance.
2. Applicants must apply the criteria set forth in the interim policy to receive an additional Federal cost share for PA Permanent Work projects.
3. The cost share increase for this interim policy is capped at a maximum of 85%. Disasters that have a Federal cost share at or above 85% will not be eligible for an additional cost share increase under this interim policy.

B. MEASURES FOR A COST SHARE INCREASE

Outcome: Incentivize PA applicants to pursue hazard mitigation measures during disaster recovery that will increase readiness for, and resilience from, a future major disaster.

The criteria below describe the ways PA applicants can receive an increase on the Federal cost share on their Permanent Work project(s). All Federal cost share adjustments under this policy for Permanent Work projects are made at the project level (not at the site level) and cannot exceed 85%. As such, if the criteria below are met, the cost share increase will apply to the entire PA project, not on the individual sites being mitigated within the project.

For the purposes of calculating the benefits of each measure, repair/restoration costs are defined as the costs associated with the eligible repair/restoration scope of work and do not include the cost of the Hazard Mitigation Proposal. Repair costs are calculated before insurance reductions. For fixed cost sub-awards, the repair costs are based on the fixed cost estimates.

1. Applicants are eligible for a Federal cost share increase of 5% on the PA Permanent Work project for which that measure applies as outlined in 1 (a) below.
 - a. The applicant completes an eligible Hazard Mitigation Proposal on a PA Permanent Work project for which the total cost of the Hazard Mitigation Proposal is equal to or greater than 20% of the total eligible



repair/restoration cost of the project at the time of obligation.

2. Applicants are eligible for a Federal cost share increase of 10% on the PA Permanent Work project for which that measure applies as outlined in 2 (a-b) below.
 - a. The applicant completes an eligible Hazard Mitigation Proposal on a PA Permanent Work project for which the total cost of the Hazard Mitigation Proposal is equal to or greater than 20% of the total eligible repair/restoration cost of the project at the time of obligation; and
 - b. The applicant has adopted the current 2024 edition or the previous 2021 edition of the International Building Code (IBC)^{3,4} and the International Energy Conservation Code (IECC)⁵ for commercial buildings or equivalent code or standard, such as ASHRAE Standard 90.1.⁶

Mitigation Cost Share Incentive Summary	
Project Activity	New Total Project Cost Share
Applicant completes an eligible Hazard Mitigation Proposal on a PA Permanent Work project for which the total cost of the Hazard Mitigation Proposal is equal to or greater than 20% of the total eligible repair/restoration cost of the project.	80% Federal Share
Applicant completes an eligible Hazard Mitigation Proposal on a Permanent Work project for which the total cost of the Hazard Mitigation Proposal is equal to or greater than 20% of the total eligible repair/restoration cost of the project at the time of obligation; AND Applicant has adopted the current 2024 edition or the previous 2021 edition of the IBC and the IECC for commercial buildings or equivalent code or standard, such as ASHRAE Standard 90.1.	85% Federal Share

³ Upon publication of the next edition of the IBC and IECC in 2027, this will be adoption of the 2027 or 2024 published editions of the codes.

⁴ International Building Code, <https://codes.iccsafe.org/content/IBC2021P2>

⁵ International Energy Conservation Code, <https://codes.iccsafe.org/content/IECC2021P1>

⁶ American Society of Heating, Refrigerating and Air-Conditioning Engineers Standard 90.1, <https://www.ashrae.org/>



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C. OTHER CONSIDERATIONS

1. Applicants must provide documentation demonstrating that the Hazard Mitigation Proposal scope was completed. For applicants who receive a cost share adjustment but do not complete the Hazard Mitigation Proposal scope, FEMA will reduce the Federal cost share back to 75% for any eligible project work and de-obligate all costs associated with the Hazard Mitigation Proposal.
2. As a condition of receiving PA funding, applicants must comply with all laws and authorities prohibiting discrimination, including but not limited to Title 44 of the Code of Federal Regulations Part 7 and Title VI of the Civil Rights Act, which prohibit discrimination based on race, color or national origin (including limited English proficiency); and the Stafford Act's Section 308, which requires the impartial and equitable delivery of disaster services and activities without discrimination on the grounds of race, color, religion, nationality, sex, age, disability, English proficiency, or economic status.

William C. Hagmaier
Assistant Administrator
Recovery Directorate

SEPTEMBER 26, 2024

Date



ADDITIONAL INFORMATION

REVIEW CYCLE

This is an interim policy and will be followed by additional implementation guidance. The interim guidance will be in effect for four years, at which point FEMA will evaluate the policy. FEMA is requesting comments from the public to inform future policy development, and will update the policy within one year as appropriate based on public comment.

AUTHORITIES AND REFERENCES

Authorities

- Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. § 5121-5207, as amended
- Title 44 of the Code of Federal Regulations, Parts 201 and 206
- Title 2 of the Code of Federal Regulations, Part 200

References

- Public Assistance Program and Policy Guide (PAPPG)⁷
- International Building Code (IBC)
- International Energy Conservation Code (IECC)
- American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE) Standard 90.1

Additional Information

For more information about the PA program, visit <https://www.fema.gov/assistance/public>. For questions about this interim policy, please contact your FEMA regional office by visiting <https://www.fema.gov/about/organization/regions>.

DEFINITIONS

- **Applicant** is a non-Federal entity submitting an application for assistance under the Recipient's Federal award.
- **Federal cost share** means the portion of the total project costs that are paid by Federal funds.
- **Hazard mitigation** means any cost-effective measure which will reduce the potential for

⁷ Public Assistance Program and Policy Guide (PAPPG), Version 4, https://www.fema.gov/sites/default/files/documents/fema_pappg-v4-updated-links_policy_6-1-2020.pdf. Applicable version is based on date of disaster declaration. Version 4 applies to emergencies and major disasters declared on or after June 1, 2020 until superseded by subsequent version.



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damage to a facility from a disaster event.

- **Hazard Mitigation Proposal** includes the stated damages, scope of work and costs for mitigation work on a PA project.
- **Permanent Work** is work that is required to restore a facility to its pre-disaster design (size and capacity) and function in accordance with applicable codes and standards. Permanent Work is divided into five categories: Roads and Bridges (Category C); Water Control Facilities (Category D); Buildings and Equipment (Category E); Utilities (Category F); and Parks, Recreational Facilities (Category G).
- **Private Nonprofit** refers to any nongovernmental agency or entity that meets specific eligibility criteria for PA funding.⁸
- **Public Assistance project** is a logical grouping of work required as a result of the declared major disaster or emergency. The scope of work and cost estimate for a project are documented on a Project Worksheet (FEMA Form 90-91). FEMA must approve a scope of eligible work and an itemized cost estimate before funding a project. A project may include eligible work at several sites.⁹ For example, a project may be an entire university or school district campus and the site would be a particular building on that campus or a project may be all the roads in the county while the site would be a particular stretch of damaged roadway.
- **Public Assistance site** is defined as an individual building, structure, location, or system section. Examples include: individual building or structure inclusive of its contents and supplies; beach or park inclusive of equipment and other items within the area that are not structures or buildings, such as benches or playground equipment; lift or pump station; dam; public transportation stations, shelters, depots and tunnels; and a section of roadway that has damage within a reasonable distance throughout that section.¹⁰

MONITORING AND EVALUATION

FEMA will closely monitor the implementation of this interim policy through coordination with regional and field staff, as appropriate, as well as interagency partners and SLTT stakeholders.

⁸ PNP eligibility requirements can be found in the PAPPG Version 4 (pgs. 43-48)

⁹ 44 C.F.R. § 206.201(k)

¹⁰ PAPPG Version 4.