



Cal OES

GOVERNOR'S OFFICE
OF EMERGENCY SERVICES

Severe Winter Storms, Tornadoes, Flooding,
Landslides, and Mudslides

FEMA-4769-DR-CA / CDAA 2024-05

FEMA Public Assistance Grant Program

Applicant's Briefing **for State Agencies**



FEMA

Cal OES recommends applicants reference the FEMA **Public Assistance Program and Policy Guide (PAPPG)** for Public Assistance policy and procedural requirements:

[FEMA Public Assistance Program and Policy Guide V4](#)

Cal OES recommends review of the FEMA Grants Portal Video Series:

[FEMA's Grants Portal Video How To Series](#)
[FEMA's Grants Portal Login Page](#)



Terminology: Recipients, Subrecipients, and Applicants

FEMA uses the terms Recipient and Applicant in Quick Guides and other tools. In Grants Portal, Recipients are identified as Grantees and Applicants are identified as Subrecipients.

Recipients/Grantees/Pass-through entities- are states, tribes, or territories that receive and administer Public Assistance Federal awards.

Applicants/Subrecipients/Subgrantees - are state, local, tribal, or territorial governments or PNP entities that submit requests for assistance under a Recipient's Federal award.



Major Disaster Declaration

Severe Winter Storms, Tornadoes, Flooding, Landslides, and Mudslides

(FEMA-4769-DR-CA)

Declaration Date: April 13, 2024

Incident Period: January 31, 2024 – February 9, 2024

ELIGIBLE COUNTIES

FEMA PUBLIC ASSISTANCE - CATEGORY A-G

Butte, Glenn, Los Angeles, Monterey, San Luis Obispo, Santa Barbara, Santa Cruz, Sutter, and Ventura counties

COST SHARE UNDER FEMA-4769-DR-CA (CATEGORY A-G)

FEDERAL	STATE	LOCAL/SUBRECIPIENT
<i>75% of eligible damages</i>	<i>75% of non-federal share*</i>	<i>25% of non-federal share</i>

****State Agencies, Tribal Governments, and Private Nonprofits (PNPs) are not eligible for State non-federal cost share***





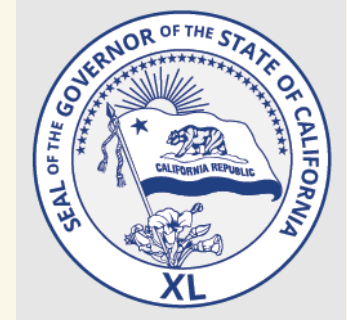
Governor's Proclamations of a State Of Emergency (SOE)

Date SOE Proclaimed	County(ies) listed on SOE	Link to SOE on www.Gov.ca.gov
February 4, 2024	Los Angeles, Orange, Riverside, San Bernardino, San Diego, San Luis Obispo, Santa Barbara, and Ventura	02.04.24 Early Feb Storms SOE
March 22, 2024	Alameda, Butte, Glenn, Lake, Mendocino, Monterey, Sacramento, San Francisco, Santa Cruz, Sonoma, and Sutter	03.22.24 Early Feb Storms SOE

Search Proclamations on the Governor's Office website

<https://www.gov.ca.gov/category/proclamations/>

State Of Emergency (SOE) Termination



- **Applicants Must:**
 - Review the provisions and orders on the related SOEs
 - Determine **which provisions** are being used by their jurisdiction and **how long** they will need them for
 - Notify Cal OES what they determined
- Termination of SOEs will not jeopardize funding for approved Public Assistance projects

Request for FEMA Public Assistance

Grants Portal Account and Request for Public Assistance (RPA)

For State Agencies, Counties, Cities, Local Public Authorities, School Districts, Special Districts, Private Nonprofits, and Tribal Governments established under State law.

Requests for Public Assistance (RPA) **must be submitted via FEMA's Grants Portal**, as FEMA no longer accepts the paper RPA Form:

- **EXISTING** GRANTS PORTAL USER:
Please login to [FEMA's Grants Portal](#). For step-by-step instructions, please review FEMA's "[How-To: RPA Submission for Existing Users](#)" tutorial.
- **NEW** GRANTS PORTAL USER:
To set up a new Grants Portal Account, go to [FEMA's Grants Portal website](#) and click on the link that says, "[Register Your Organization for Public Assistance.](#)" For detailed instructions, please review FEMA's "[How-To: Org Creation and RPA submission.](#)"

***New organizations must have an approved organization profile before they can submit an RPA**

Have Questions?

Email: DisasterRecovery@caloes.ca.gov



Request for Public Assistance (RPA)

RPA Submissions:

For Eligible Applicant types: [Grants Portal Log In Page](https://grantee.fema.org) (<https://grantee.fema.org>)

Severe Winter Storms, Tornadoes, Flooding, Landslides, and Mudslides (FEMA-4769-DR-CA)

RPA Deadline

COUNTY	DATE
Butte, Glenn, Los Angeles, Monterey, San Luis Obispo, Santa Barbara, Santa Cruz, Sutter, and Ventura and all State Agencies	May 13, 2024



Request for FEMA Public Assistance

RPA Deadlines

Submit all RPAs via Grants Portal

No Later Than

May 13, 2024

All Other Correspondence:

Mr. Robert Larsen, State Public Assistance Officer

Cal OES, Public Assistance Division

3650 Schriever Avenue

Mather, CA 95655

ATTN: FEMA-4769-DR-CA

OR Email:

DisasterRecovery@caloes.ca.gov

Questions?

Email: **DisasterRecovery@caloes.ca.gov**



Do You Have a UEI Number? Have you registered with SAM.gov?

UEI

The Unique Entity ID (UEI) is a 12-character alphanumeric identifier used in SAM.gov and other federal government systems to identify a unique entity.

*UEI # assignment is a **FREE** service.

SAM.gov

The federal government requires registration with the **System for Award Management (SAM.gov)** to receive federal grant funds from the Federal Emergency Management Agency (FEMA) and other government/federal agencies, and Cal OES is required to verify registration before release of any future potential funds. A UEI number is required to register an entity with SAM.gov.

To obtain a UEI and register an entity in SAM.gov, please go to:

[SAM.gov Website](https://sam.gov/content/home)

(<https://sam.gov/content/home>)

*Be prepared to have your Federal Tax ID Number as well.



Disaster Financial Recovery and Reconciliation

(DFRR)

DFRR is the central coordination hub between state agencies and the Department of Finance on projected state disaster costs and estimated federal reimbursements. DFRR:

- Collects all response costs from responding state agencies for all disasters.
- Coordinates with state agencies on potential funding needs related to disaster response efforts and provides information to the Department of Finance for final decision regarding absorbability as well as Disaster Response Emergency Operations Account (DREOA) eligibility and supplemental funding allocations.
- Reconciles DREOA transfers to state agencies with any federal reimbursements received.
- Collaborates with Recovery Directorate on various aspects related to disaster costs.

DFRR Incident Cost Tracking and Funding Analysis

- Using the Incident Cost Tracking process, DFRR consolidates information from all state agencies and flags potential funding needs for the Department of Finance.
- To measure the impact of disasters to the State, all response costs, regardless of funding needs, must be reported.
- Through this formal process, the Department of Finance will receive comprehensive information to determine whether additional funding will be provided.
- Training is available to state agencies regarding the Incident Cost Tracking process.
- If an agency anticipates a funding concern related to a mission task not related to a proclaimed State of Emergency, reach out to the assigned DFRR analyst on costs and funding needs. The Mission Task Funding Analysis form (available on the DFRR page of the Cal OES website) may be used to help this communication.

DFRR – Disaster Response Funding

- The Department of Finance can allocate DREOA to state agencies for costs that are “immediate and necessary to deal with an ongoing or emerging crisis.”
 - DREOA is available for extraordinary response costs that occur within 120 days after the Governor proclaims a state of emergency.
 - If activities will continue past the initial 120 days, the Department of Finance can request an extension. State agencies should communicate with DFRR if additional time is needed.
- State agencies must flag unabsorbable costs that are not eligible for DREOA, as part of their cost reporting. This will allow DFRR to start funding option conversations with the Department of Finance early.
- For more detailed information, a DREOA Fact Sheet and DFRR FAQs sheet are available on the DFRR page of the Cal OES website.

DFRR – Key Points

- State agencies must report all state response costs to DFRR during the incident.
 - This information may help with supporting a request for a federal proclamation.
 - Identify if costs are unabsorbable, flagging if any costs are not eligible for DREOA.
- DREOA funding **does not** replace FEMA reimbursements.
 - State agencies shall submit claims for FEMA reimbursement for all FEMA-eligible costs.
 - DFRR, in coordination with Recovery, can assist state agencies through this process.

DFRR – Key Points

- DFRR is setting up monthly meetings with State agencies. These meetings are collaborative forums, to ensure awareness of status for various items, and allow for follow up on any questions.
- Additional resources are available on the DFRR's webpage:

<https://www.caloes.ca.gov/office-of-the-director/policy-administration/disaster-financial-recovery-and-reconciliation/>



For questions, please contact DFRR at:
DisasterCostRecovery@caloes.ca.gov



Cal OES

GOVERNOR'S OFFICE
OF EMERGENCY SERVICES

Event Highlight:
406 Mitigation

406 Mitigation

406 Mitigation eligibility requirements

- Only Category C-G permanent projects are eligible
- Mitigation measures are restricted to damaged infrastructure impacted by the disaster event and in conjunction with permanent work projects
- These are measures over and above current codes and standards

Eligibility Criteria for Section 406



Reduce potential of future, similar damage to the facility



Technically feasible



Cost Effective



Compliant with all laws and executive orders

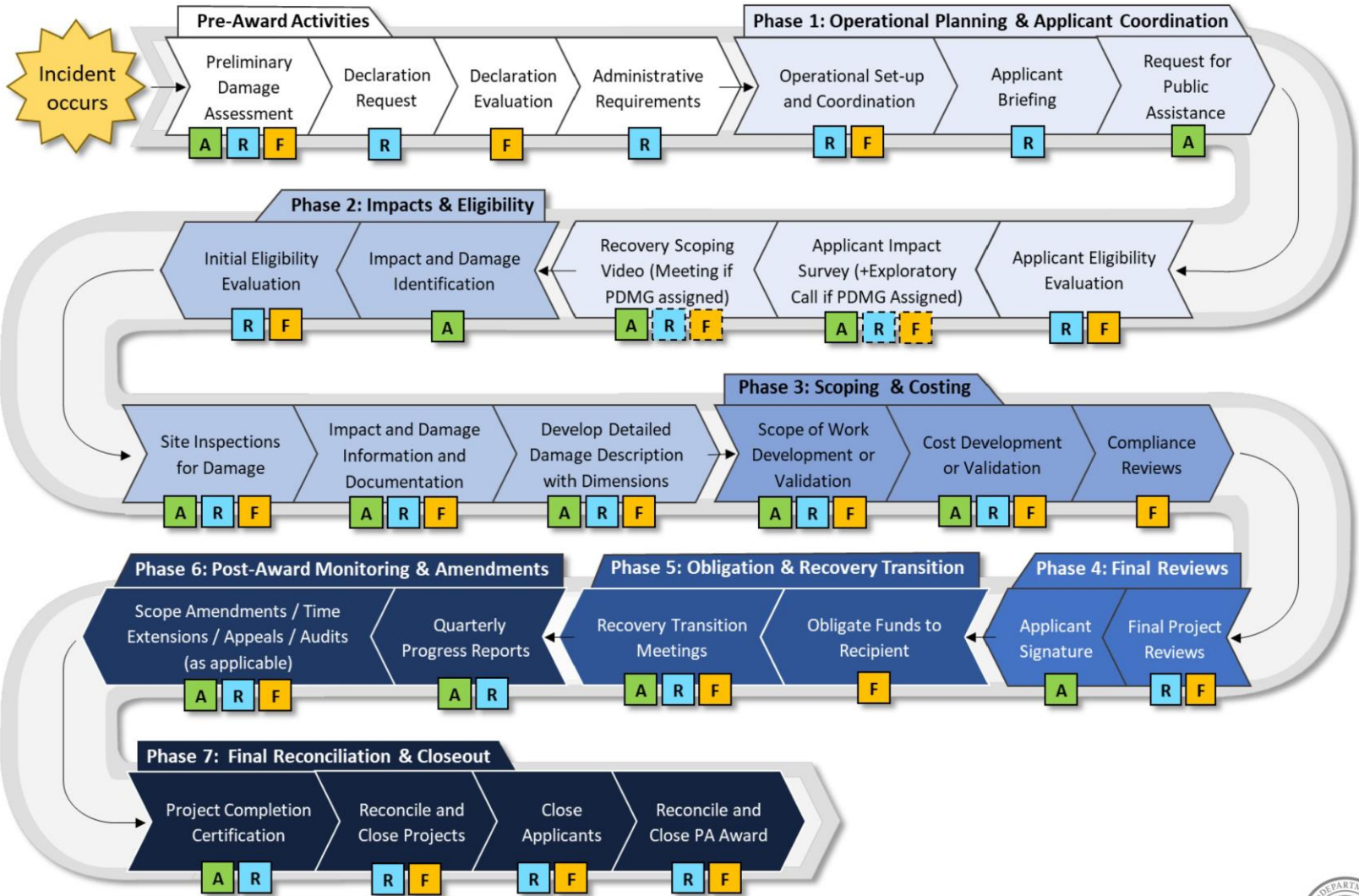
FEMA Public Assistance Program



FEMA Public Assistance National Workflow

PROGRAM DELIVERY PROCESS STEPS

Pre-Award Activities Phase 1 Phase 2 Phase 3 Phase 4 Phase 5 Phase 6 Phase 7



Key:

Applicant	Recipient	FEMA
A	R	F



Declaration Process Overview

❑ **Preliminary Damage Assessment (PDA)**

When an incident may exceed SLTT capabilities to respond, the State requests a joint PDA with FEMA.

❑ **Declaration Request**

The Governor may request a declaration from the President through FEMA, no later than 30 days after the incident occurs.

❑ **Declaration Evaluation**

FEMA uses PDA information to evaluate the need for assistance under the PA Program.

❑ **Presidential Declaration**

For FEMA to provide assistance, the President must declare that an emergency or major disaster exists. The declaration establishes the type of incident, incident period, designated areas, types of assistance, Federal cost share, and Federal Coordinating Officer (FCO).



The Recipient/Cal OES's Role

Cal OES has the responsibility to...

- Serve as the official contact between Subrecipients/Applicants and FEMA
- Educate Subrecipients/Applicants on the Public Assistance Program and other available assistance
- Provide technical support and assistance to Subrecipients/Applicants
- Collect data and prepare the damage description
- Collect cost data to prepare cost estimates (with FEMA)
- Disburse grant funds to Subrecipients/Applicants and initiate Subrecipients collection actions when necessary
- Administer Subrecipients/Applicant subawards through project monitoring, inspection, review, and audits for compliance with federal regulations
- Conduct application closeouts
- Facilitate Quarterly Reporting to FEMA

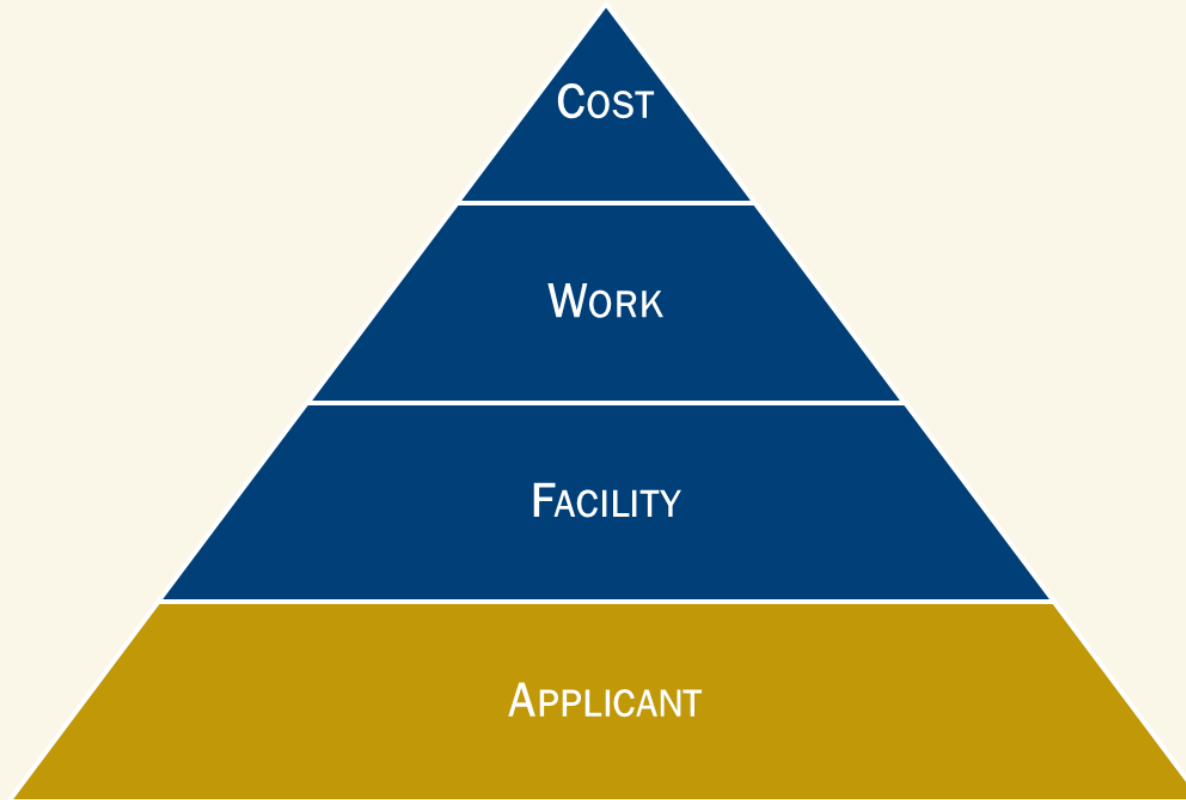


The Subrecipient/Applicant's Role

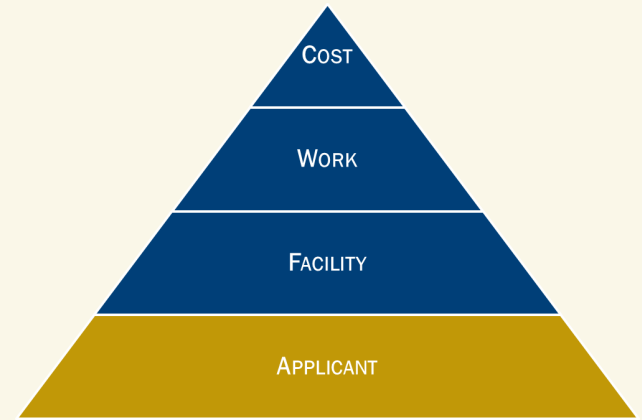
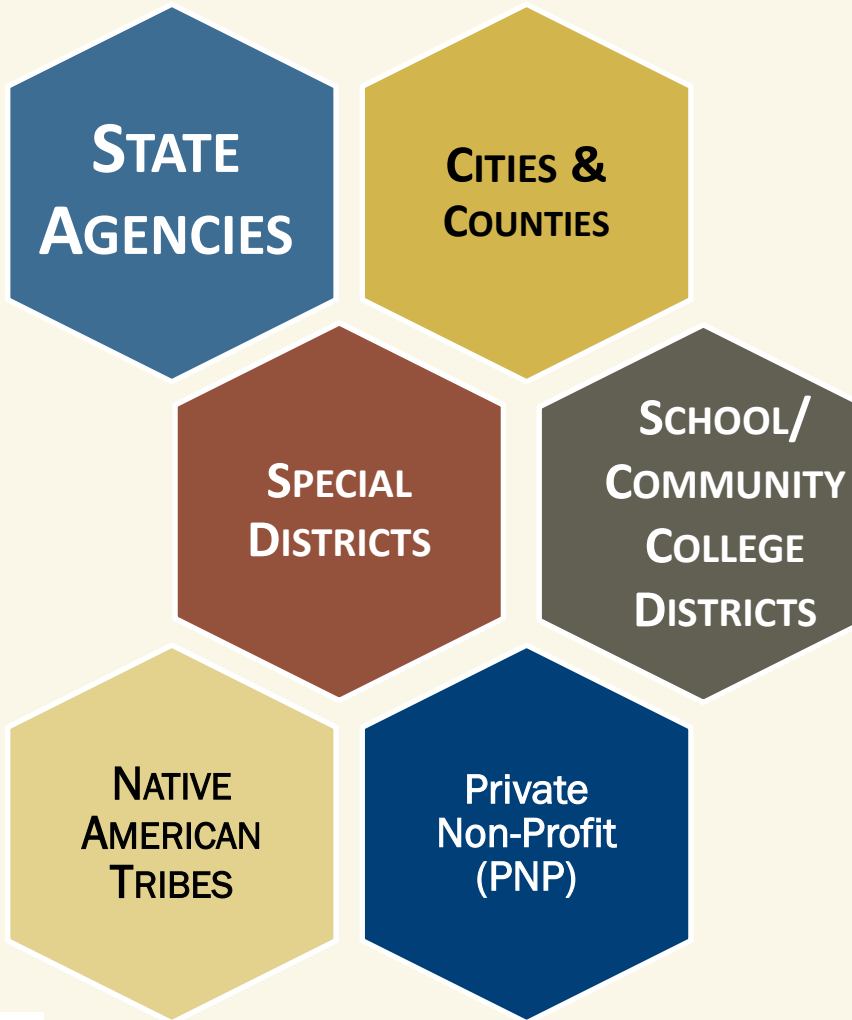
- Provide Initial Damage Estimate (IDE)
- Assist with Preliminary Damage Assessment (PDA)
- Request assistance
- Log in, monitor, and maintain Grants Portal account
- Thoroughly identify damaged sites and costs
- Provide documentation to FEMA and Cal OES for all projects
- Expend grant funds in accordance with grant requirements
- Be accountable to the State for Federal funds
- Maintain clear and organized documentation
- Provide Information for Quarterly Reports and for project closeout within 90 days of project completion.
- Provide information to Cal OES regarding SOE provisions being used



Recovery Pyramid: Applicant



Eligible Subrecipients/Applicants



Exploratory Call

- FEMA now requests the completion of an **Applicant Impact Survey** which will be emailed after your RPA submission.

- Shortly after your RPA is approved, you will be contacted by a Program Delivery Manager (PDMG) who will be your Point of Contact and assist you in navigating the Public Assistance Process. The objective of the call is to prepare for the Recovery Scoping Meeting as follows:
 - Understand the Applicant's incident impacts by gathering information about the type and level of damage and priority needs for assistance
 - Ensure Applicant understands general requirements
 - Provide key information on documents, procurement, and EHP requirements
 - Schedule the Recovery Scoping Meeting and define appropriate attendees



Recovery Scoping Meeting

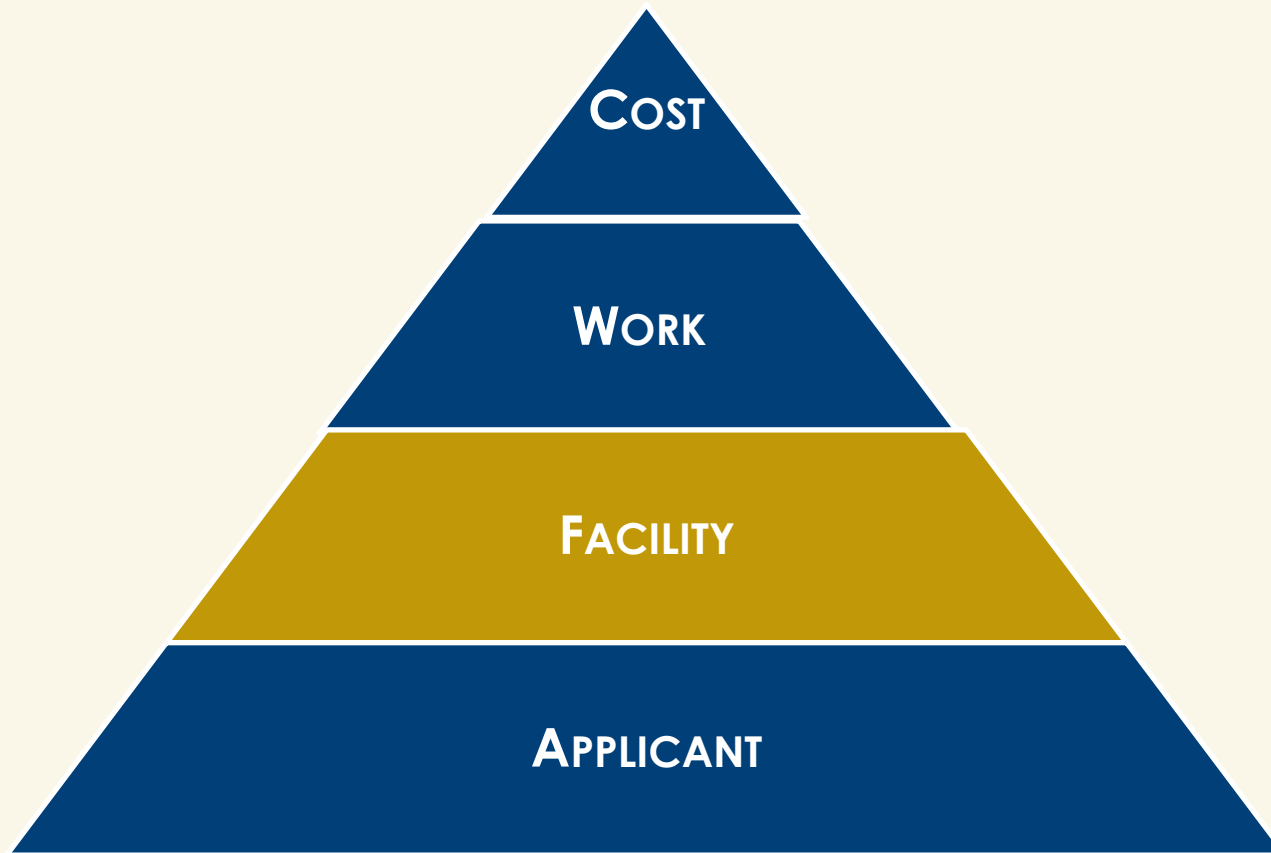
(FORMERLY KNOWN AS: “KICK OFF MEETING”)

- ❑ Provides Eligibility Information
- ❑ Starts a **60-day clock** to identify and report damages (Damage Inventory)
- ❑ Opportunity for the Applicant to discuss special needs
- ❑ Subrecipient/Applicant’s key staff should attend
- ❑ Applicants should submit damage inventory indicating:
 - Damage Description(s)
 - Location
 - Estimated Costs
- ❑ Be prepared to discuss scope and nature of work and insurance documentation
- ❑ Be prepared to discuss with State representative which SOE provisions are being used and how long they are needed

Site Inspections

- FEMA gathers project-specific information by conducting site inspections and obtaining documentation.
- FEMA conducts inspections at sites with work to be completed.
- The purpose of the inspection is to validate, quantify, and document the cause, location, and details of the reported damage and debris impacts. This is not an eligibility review.
- FEMA may also identify EHP issues, project-related conservation opportunities, and PA mitigation opportunities during the site inspection.

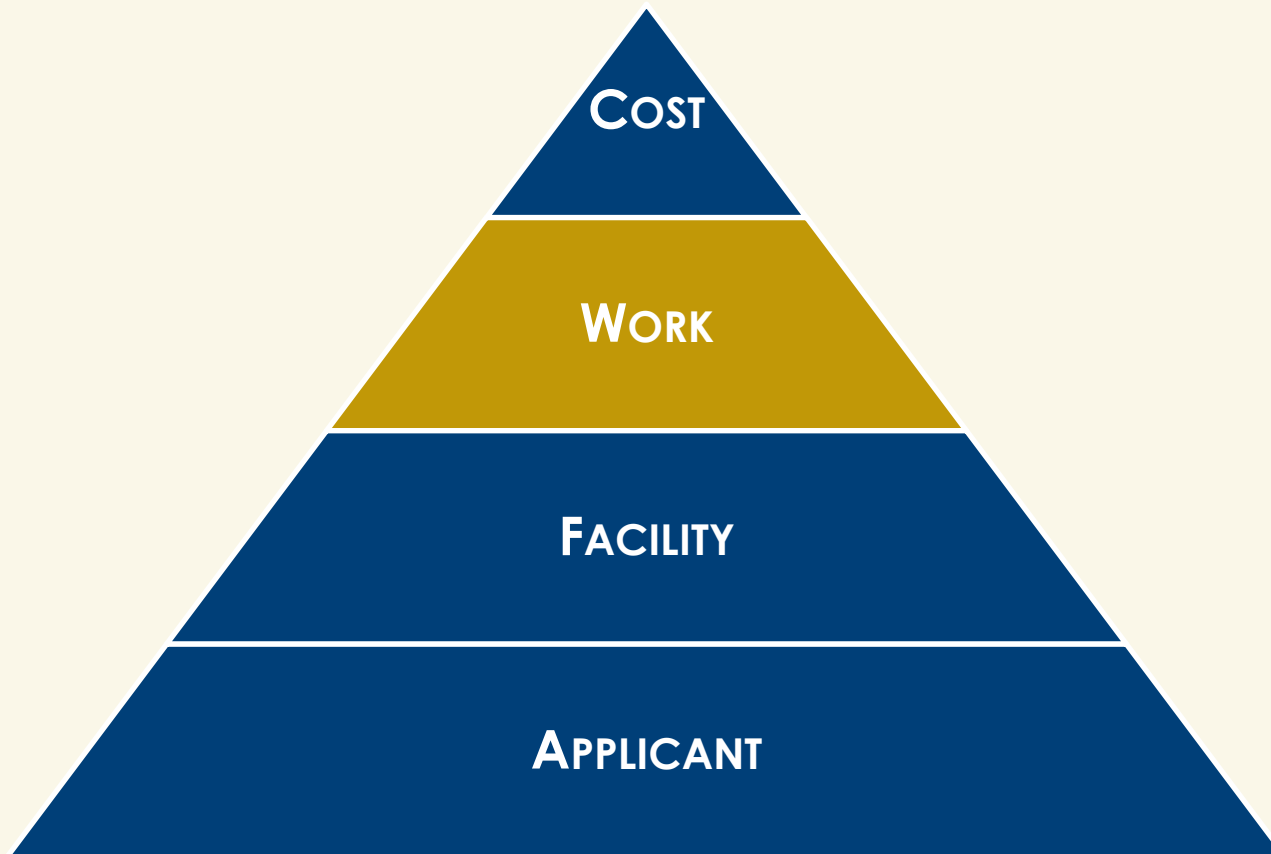
Recovery Pyramid: Facility



Eligible Facilities

- Buildings, systems, or equipment, built or manufactured; or improved and maintained natural features
- Legal responsibility of an eligible Subrecipient/Applicant
- Located in a designated disaster area
- Not under the authority of another federal agency
- In active use at the time of disaster

Recovery Pyramid: Work



Eligible/Ineligible Work Examples

Eligible:

- Direct result of a disaster
- Located in a designated disaster area
- Legal responsibility of an eligible Applicant/Subrecipient

Ineligible:

- Applicant/Subrecipient negligence
- Deferred maintenance
- Pre-existing damage
- Duplication of Benefits. Revenue collected by the Applicant (including fees and fines) for the performance of eligible work funded under this policy is considered program income. The project worksheet will be reduced accordingly during closeout
- Non-compliance with local, state, and federal environmental laws and regulations



Categories of Work



**CATEGORY
A
DEBRIS
REMOVAL**

**CATEGORY
B
EMERGENCY
PROTECTIVE
MEASURES**

**CATEGORY
C
ROADS &
BRIDGE
SYSTEMS**

**CATEGORY
D
WATER
CONTROL
FACILITIES**

**CATEGORY
E
BUILDINGS
&
EQUIPMENT**

**CATEGORY
F
UTILITIES**

**CATEGORY
G
PARKS,
RECREATION
& OTHER**

Categories A & B

A— Debris Removal

- Eliminates immediate threats to lives, public health, and safety
- Eliminates immediate threats of significant damage to improved public or private property
- Ensures economic recovery of the community and provides a benefit to the community at large
- Debris removal on private property is generally the responsibility of the property owner and may be covered by insurance

B— Emergency Protective Measures

- Actions taken by a community before, during and after a disaster to save lives, protect public health and safety or eliminate immediate threat of significant damage to improved public and private property through cost effective measures

Damage Caused During Performance of Emergency Work

Road Damage

Typical recommendations for road damage:

➤ **Pre-Disaster:**

- Maintenance Records or Plans
- Photos or other documentation of road condition



➤ **Post Disaster:**

- Prior to recovery work (like debris removal):
 - Photos or video of proposed haul routes or heavily traversed routes
 - Other documents to establish condition of roads (remaining useful life of the roadway, or the like)
- After Recovery work has been completed:
 - Photos or video showing specific damage or road degradation sites
 - Other documents to establish the current condition of the road
 - Estimated costs and methods of repair



*If approved, the road damage caused during the performance of emergency work will be considered emergency work.



Non-Congregate Sheltering (NCS)

From July 2, 2022, and forward, FEMA will implement the PAPPv4 sheltering policy with the following flexibilities:

- FEMA will waive the requirement in the PAPPv4 for Recipients/Applicants to obtain pre-approval before conducting NCS activities in traditional settings, (hotels/motels, dormitories, retreat camps).
 - This waiver does not apply to non-traditional NCS setting (such as Recreational Vehicles (RVs)). The use of non-traditional methods to provide NCS requires pre-approval by FEMA's Assistant Administrator for Recovery. NCS provided in any setting other than traditional settings are subject to additional incident-specific requirements and guidance.
- Applicants are required to notify FEMA Headquarters and the appropriate Regional Administrator, through the Recipient, within five (5) days of initiating NCS operations for a declared incident (if sheltering is conducted prior to a federal declaration, then the notification requirement applies as 5-days post declaration).



Non-Congregate Sheltering (NCS)

- For NCS conducted for more than 30 days, the Applicant must submit a time extension request, through the Recipient, to the FEMA Regional Administrator.
 - Time extensions are granted in 30-day increments.
 - Time extension requests should be submitted at least seven (7) days before end of the last approved time extension.
 - Regional Administrators may provide time extensions up to 6 months from the declaration date.
 - Time extensions beyond 6 months must be approved by FEMA's Assistant Administrator for Recovery.



Other Emergency Work Eligibility

Federal Highway Administration (FHWA) Debris Removal

- Removal of debris from improved public property and public rights-of-way, including Federal-aid roads, is eligible.

Mutual Aid: Law Enforcement

- The Law Enforcement Master Mutual Aid Plan does not provide for reimbursement costs between the requesting agency and responding agency.

Law Mutual Aid Agreement

Reimbursement for mutual aid may be provided if:

- A pre-event agreement exists between the requestor and responder specifying reimbursement.
- A post event agreement is executed between the requestor and responder, within 30 days of the Applicants' Briefing, specifying reimbursement.
- Agreements must not be contingent upon Federal or State disaster funding.

Building Code and Floodplain Management Administration and Enforcement

[FEMA Policy FP 204-079-01](#)

The intent of this policy is to provide communities with the resources needed to effectively administer and enforce state and locally adopted building codes and floodplain management ordinances for a period of not longer than 180 days after the date of the major disaster declaration.

This policy is providing the Applicant notifies FEMA that it intends to seek reimbursement within 90 days from the Recovery Scoping Meeting. This may include public, private, and residential structures.

Eligible Work

- Building Code and Floodplain Management Administration
- Code Enforcement

Refer to FP 204-079-01 and PAPPGv4 for more details

Categories C-G

Eligible Permanent Work

- Must repair, restore, or replace disaster-damaged facilities in accordance with regulations
- Must restore to pre-disaster design, capacity, and function in accordance with applicable codes and standards
- Must be required as a result of the disaster
- May include cost-effective hazard mitigation measures

Ineligible Work

- Activities associated with non-disaster damaged structures on non-disaster-related development
- Activities to update a community's laws, rules, procedures, or requirements.
- Examples include:
 - Adopting new or updating current building codes or floodplain management ordinances.
 - Adopting or updating zoning laws and requirements.
 - Developing new land use plans or requirements.

Other Permanent Work

Codes and Standards Upgrades

- Apply to the type of repair work required (damaged elements only)
- Be appropriate to pre-disaster use
- Be reasonable and formally adopted and implemented prior to the disaster declaration date
- Be applied uniformly to all similar facilities (public and private)
- Be enforced during the time it was in effect
- [FEMA Consensus-Based Codes FP 104-009-11 V2.1](#)



406 Mitigation Cost Effectiveness

406 Mitigation measures must be cost-effective

- Cost effectiveness is determined by one of the following methods:
 - Expenses do not exceed 15% of the cost for repairing an eligible Damage Inventory item
 - Expenses do not exceed 100% of the cost for repairing an eligible Damage Inventory item and, the selected mitigation measure is identified in Appendix J of FEMA's PAPPG Cost-Effective Mitigation Measures
 - If not initially cost-effective, grant funds may be awarded if a benefit-cost ratio greater than 1.0 is estimated using FEMA's Benefit Cost Analysis (BCA) Tool (v6.0)
 - FEMA may provide technical support to complete a BCA upon request

PAPPGv4 APPENDIX J:

Cost-Effective Public Assistance Hazard Mitigation Measures

- I. Drainage Structures
- II. Transportation Facilities
- III. Mechanical, Electrical, Plumbing (MEP) Components
- IV. Pipes
- V. Waste/Wastewater
- VI. Electric Power Systems
- VII. Storage Tanks
- VIII. Buildings and Structures
- IX. Signage

406 Mitigation Examples

Example 1

- Harden and expand an engineered and maintained culvert damaged by the disaster event into a larger structure. Extend the culvert discharge beyond the toe of embankment to mitigate erosion and scour. Use energy-dissipating riprap to mitigate scour.

*May require a Hydraulic and Hydrology (H&H) Study



406 Mitigation Examples

Example 2

- Install a new debris barrier or grate during the repair of a disaster impacted culvert to prevent possible debris flow blockage



406 Mitigation Examples

Example 3

- Install riprap to prevent scouring and install native plants for erosion control



406 Mitigation Examples

Example 4

- Elevate vulnerable equipment above base flood elevation



Donated Resources

Donated Resources – Category A and B

- Provided as a single credit towards all A and B Project Worksheets' non-federal share

Donated Resources – Category C through G

- Credited against individual projects on a project-by-project basis for the non-federal share

Donated Resources of a Specific Project Worksheet

- Donated labor
 - Donated equipment
 - Donated materials
- Subrecipient/Applicant must document:
- Names, Dates, Hours worked
 - Equipment/materials utilized
 - Specific tasks completed and location of tasks

Accessibility Considerations

Making facilities and paths of travel more accessible allows individuals with disabilities to maintain their independence.

Compliance with accessibility laws applies to all State/FEMA funded projects.



Accessibility for Individuals with Disabilities

- In some circumstances, FEMA provides PA funding for accessibility compliance requirements.
- If the primary function area sustained eligible disaster damage, FEMA may provide PA funding for reasonable changes required by an eligible code or standard to increase accessibility to undamaged elements that serve the primary function area and the path of travel to the primary function area such as an accessible entrance, accessible routes to the primary function area, restroom access, accessible drinking fountains, and other elements.
- FEMA provides PA funding regardless of whether the facility was in compliance prior to the incident, provided the Applicant was not cited for a violation.

FEMA PA Program and Policy Guide, v.4 (pages 152-154)



Terminology

A **primary function area** is the area where a major activity occurs for which the facility is intended. Examples include the dining area of a cafeteria, meeting rooms of a conference center, and public offices providing governmental services to the public.

Path of travel includes a continuous, unobstructed way of pedestrian passage to the primary function area. This includes interior and exterior approaches such as hallways, doorways, sidewalks, streets, parking areas, and public transit drop points. See Figure 14. *Path of Travel*.

Service facilities to the primary function area include restrooms, telephones, and drinking fountains.

See www.access-board.gov/guidelines-and-standards/buildings-and-sites/about-the-ada-standards/guide-to-the-ada-standards.

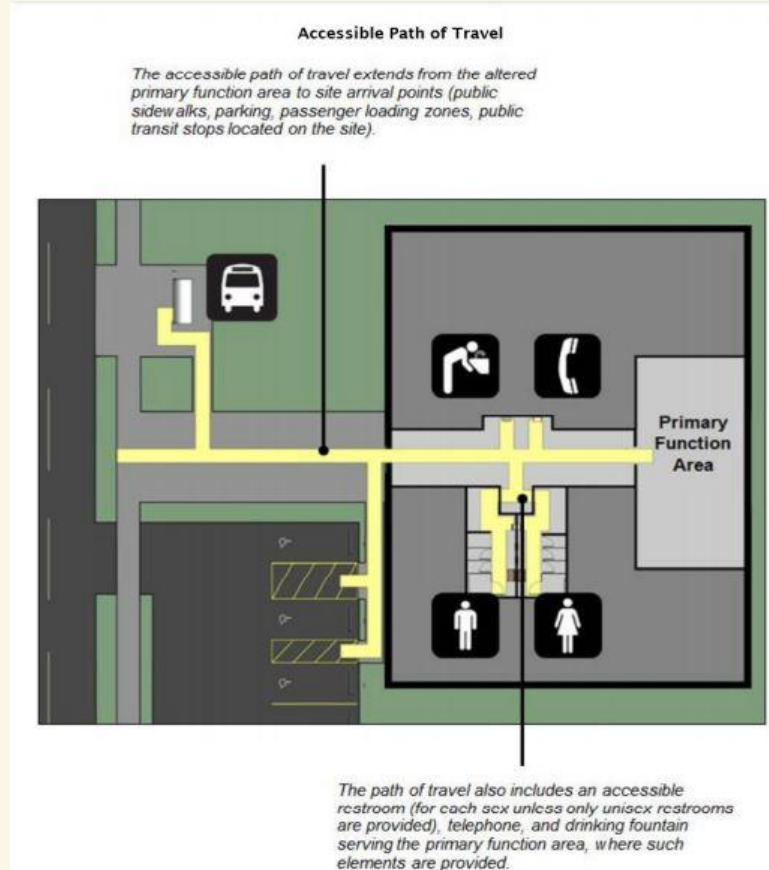


Figure 14. Path of Travel

Special Considerations



INSURANCE



**HAZARD
MITIGATION**



**HISTORIC
PRESERVATION**

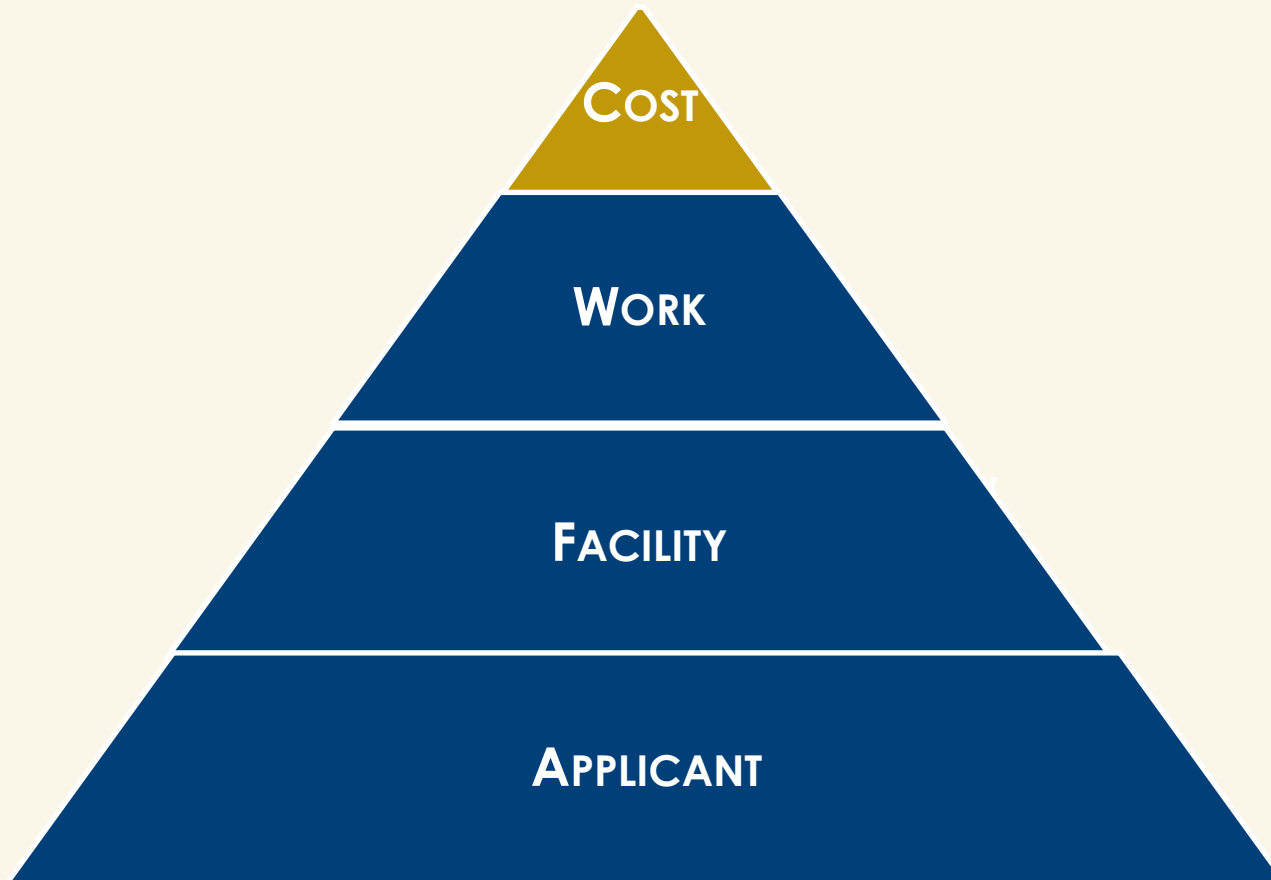


**ENVIRONMENTAL
COMPLIANCE**



**FLOODPLAIN
MANAGEMENT**

Recovery Pyramid: Cost



Eligible Costs

- Reasonable and necessary
- Comply with applicable procurement standards
- [Title 2, Code of Federal Regulations, Part 200](#)
- Cannot duplicate funding from other Federal agencies or insurance coverage.
- Not contingent upon state and/or federal funding

Labor (Force Account) Overtime

Contracts and Procurement

Material

Equipment (Force Account & Rental)

Labor

Force Account

Work performed by employees of the Subrecipient/Applicant:

- ❑ For emergency work (Category A and B)
 - Category A - eligible
 - Category B - typically only overtime is eligible
- ❑ For permanent work (Categories C through G)
 - regular and overtime are eligible

Extended Periods of Overtime

For permanent or reassigned employees performing eligible activities.

FEMA Public Assistance Program and Policy Guide v4

- **Chapter 7, Section II B, pages 69-72 - Labor Emergency Work:**
Example: The Applicant may be required to pay firefighter costs from portal-to-portal, which may result in paying for 24-hour shifts with periods of rest. FEMA will reimburse costs based on such requirements; however, FEMA limits its reimbursement to that which is reasonable and necessary, not to exceed 14 calendar days from the start of the incident period.

Material

- Cost of supplies
- Purchased
- Taken from stock
- Used during the performance of eligible work

Equipment

Force Account

Costs of Applicant owned equipment:

- Both regular time and overtime
- Rate types used (FEMA, state and local)
- When local rate is developed, reimbursement based on local rate or [FEMA's rate](#)*, whichever is lower
- Standby time not eligible

Rates include:

- Cost of operation
(Operator costs covered under FA labor)
- Insurance and depreciation
- Maintenance and fuel

Rental

Subrecipients/Applicants must identify:

- What was done
- When
- Where
- How long
- What kind of equipment was used
- Charges per project



*<https://www.fema.gov/assistance/public/tools-resources/schedule-equipment-rates>



Engineering/Design Services

- Necessary to complete eligible work
- Use local typical percentage of costs or work with your PDMG

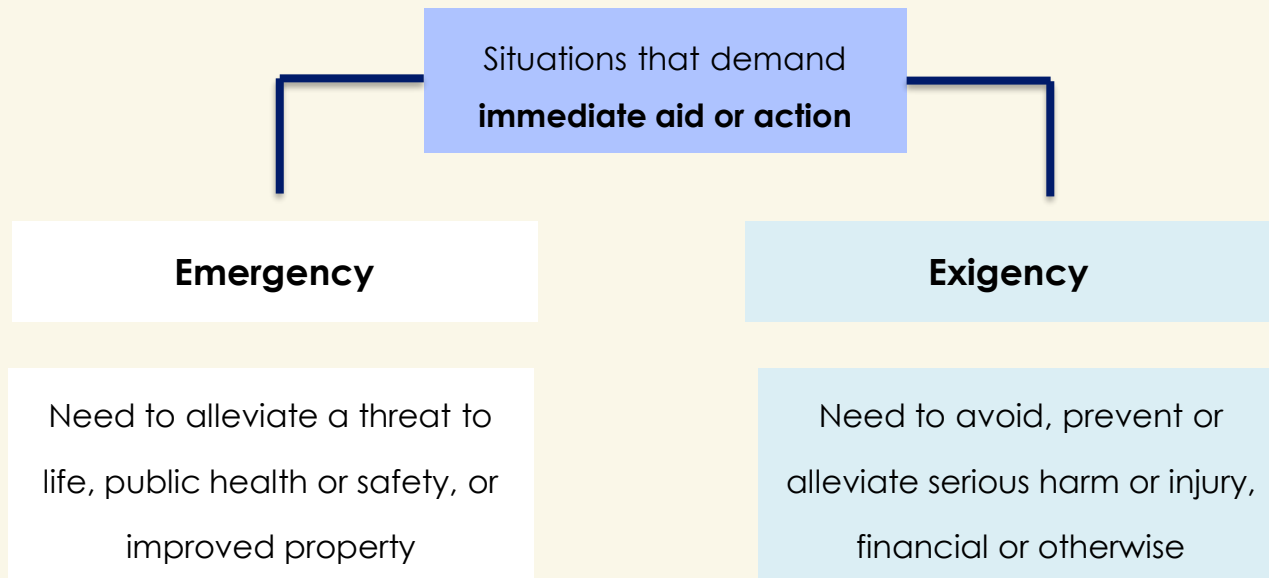


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Public Assistance Requirements for
Contracts and Procurement
for **State Entities**

Sole-Source Procurement Under E&E



If using sole sourcing due to emergency or exigency, you must:

Justify with **documentation**

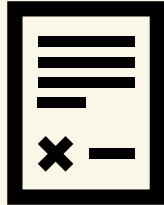
Use only during the **period of actual** exigent or emergency circumstances

Transition to a competitive method **as soon as period ends**

★ FEMA Procurement under Emergency and Exigent Conditions Fact Sheet



Use of Pre-Awarded/Pre-Existing Contracts during E&E



If the pre-awarded/pre-existing contract is not in compliance with the federal procurement requirements, it may still be possible to use the contract for the duration of the E&E

FEMA recommends that **non-state entities**:

- Review the requirements applicable during E&E and **take actions to modify pre-awarded or pre-existing** contracts where applicable
- **Justify the use of a sole-sourced contract** with suggested documentation

Contracts and Procurement

for State Entities

State entities **must** follow federal procurement regulations and:

- ★ Follow state procurement policies and procedures
- ★ Comply with requirements for socioeconomic affirmative steps, domestic preferences for procurement, procurement of recovered materials, and prohibitions on expending FEMA award funds for covered telecommunications equipment or services.
- ★ Include all federally required contract provisions.



Contracts and Procurement

for State Entities

Federal Procurement Requirements for State Entities:

- ★ Follow the same policies and procedures it uses for procurements from its non-federal funds set forth in 2 CFR section 200.317 (procurement by states)
- ★ Follow all necessary affirmative steps found in 2 C.F.R. § 200.321 (contracting with small and minority businesses, women's business enterprises, and labor surplus area firms) to assure that small and minority businesses, women's owned enterprises, and Labor Surplus Area (LSA) firms are used when possible

Contracts and Procurement

for State Entities

Following FEMA's Procurement Policy Is Important:

- ★ Procurement standards set forth in 2 CFR section 200.317 to 200.327, and Appendix II to Part 200 apply to all FEMA awards issued on or after November 12, 2020.
- ★ Office of the Inspector General (OIG) serves as independent office of the Department of Homeland Security (DHS) that oversees audit and investigative functions.
- ★ OIG audit reports reveal significant issues representing millions of dollars of Federal funds.
- ★ In FY 2016, OIG audited disaster recovery projects totaling \$686 million and recommended FEMA disallow \$155.6 million as ineligible and unsupported.



Contracts and Procurement

for State Entities

Considerations for procurement by state entities

- ★ Even if a state complies with its own policies and procedures used for procurement from non-federal funds when it procures property or services under a FEMA award, FEMA will still evaluate the procurement to determine whether the costs conform to the Cost Principles at 2 C.F.R. Part 200, Subpart E.24. For example, while state entities are not prohibited by the federal rules to award a CPPC contract, FEMA may still question the contract costs as unreasonable, since this type of contract incentivizes the contractor to drive up costs to increase profit.
- ★ Additionally, while more prescriptive conflict of interest rules apply to non-state entities, FEMA, pursuant to its authorities, requires that all NFEs, including state entities, maintain written conflicts of interest rules, including organizational conflicts of interest rules, governing the actions of their procurement professionals and disclose any potential conflict of interest to FEMA in writing.

Contracts and Procurement

General Requirements and Best Practices

- ★ Document everything.
- ★ Retain documents related to procurement.
- ★ Include FEMA's required clauses and provisions in contracts.
- ★ Avoid piggybacking projects off existing contracts.
- ★ Document a Cost/Price analysis justifying reasonability of contract's price for work to be performed, and selection of the contractor.



Contracts and Procurement

Additional Resources:

[FEMA Procurement Disaster Assistance Team \(PDAT\) Guidance and Tools](https://www.fema.gov/grants/procurement)

<https://www.fema.gov/grants/procurement>

[Resource Library: Purchasing Under a FEMA Award](https://www.fema.gov/grants/procurement/resource-library)

<https://www.fema.gov/grants/procurement/resource-library>

[FEMA Procurement Checklist](https://www.fema.gov/sites/default/files/2020-07/fema_pdat_procurement-checklist.pdf)

https://www.fema.gov/sites/default/files/2020-07/fema_pdat_procurement-checklist.pdf

[PDAT Field Manual](https://www.fema.gov/sites/default/files/documents/fema_PDAT-field-manual_102021.pdf)

https://www.fema.gov/sites/default/files/documents/fema_PDAT-field-manual_102021.pdf

[Contract Provisions Guide](https://www.fema.gov/sites/default/files/documents/fema_contract-provisions-guide_6-14-2021.pdf)

https://www.fema.gov/sites/default/files/documents/fema_contract-provisions-guide_6-14-2021.pdf

[Procurement Under Grants Training Schedule](https://www.fema.gov/grants/procurement/training)

<https://www.fema.gov/grants/procurement/training>





***Cal* OES**

**GOVERNOR'S OFFICE
OF EMERGENCY SERVICES**

**Disaster Recovery Project
Environmental and Historic
Preservation (EHP) Compliance**

Agenda

1. Environmental Laws
2. Laws for Work In or Near Water
3. Laws for Work around Endangered Species
4. Cultural Resource Laws
5. Exercise: Define the Project
6. Important Points

State and Federal Environmental and Historic Preservation (EHP) Compliance Laws

“Umbrella” Environmental Laws

- **California Environmental Quality Act (CEQA)**
 - <https://ceqasubmit.opr.ca.gov/>
 - Jan 1, 2024 - Senate Bill (SB) 69 (Cortese, 2023) must file with County Clerk and Office of Planning and Research
- **National Environmental Policy Act (NEPA)**
 - <https://www.whitehouse.gov/ceq/>
 - <https://ceq.doe.gov/>



Note: For obligation of Public Assistance Grant funding via CDAA and Stafford Act, documentation of CEQA and NEPA compliance is required.

Cal. Code Regs. Title 19, § 2966

Environmental Compliance State Regulations Compare General provisions for compliance with CEQA and permitting responsibilities:

(a) Prior to commencing work on a project, other than engineering, design or environmental assessment¹ work necessary to determine the scope of work or funding eligibility, each applicant shall, if required by CEQA, prepare, adopt, certify or file, the appropriate CEQA document(s);

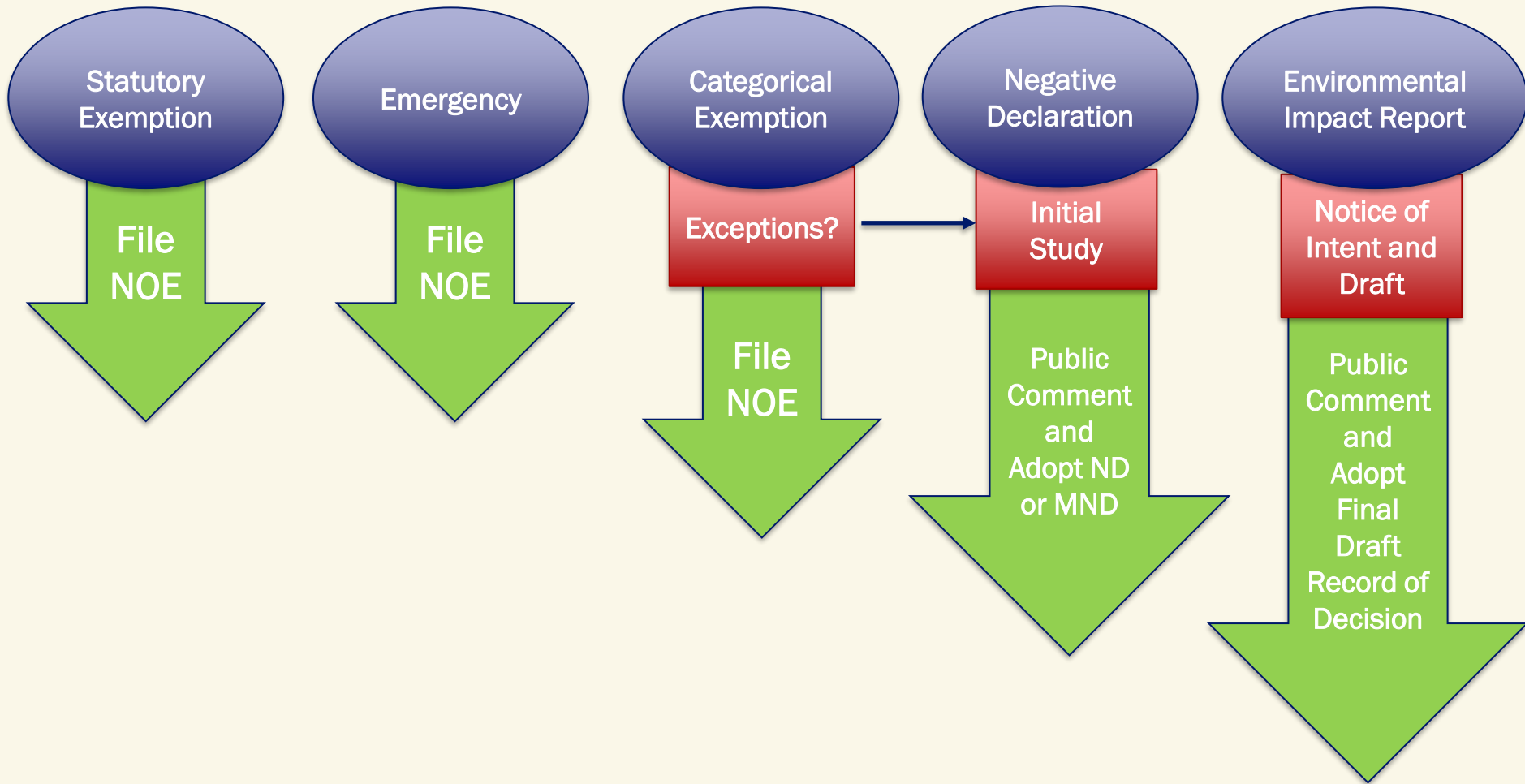
(b) Prior to commencing work on a project, other than engineering, design or environmental assessment work necessary to determine the scope of work or funding eligibility, each applicant shall be responsible for obtaining the permits, clearances and necessary approvals from **tribal, federal**, state and local agencies; and,

(c) Applicants shall maintain adequate documentation that demonstrates their compliance with this Section and, upon request, shall furnish the documentation to Cal OES

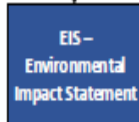
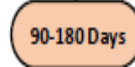
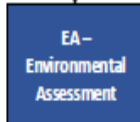
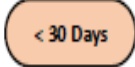
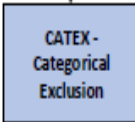
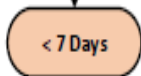
¹Engineering and Environmental Assessment work that does not require ground disturbance, or scientific collection, i.e. research and non-intrusive field studies.

Words in Blue are in legislative review.

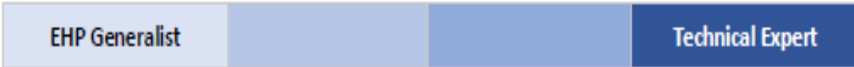
CEQA



NEPA Determination is conducted concurrently with above Laws/EO review



COMPLEXITY SCALE



12/9/2019

NEPA REVIEW PROCESS SIMPLIFIED DECISION TREE

Key Environmental Laws Considered under CEQA and NEPA

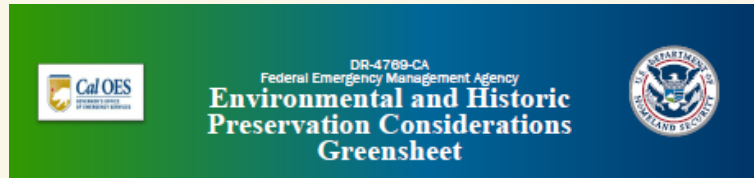
State

1. California Endangered Species Act (CDFW)
2. California Native American Historic Resource Protection Act (SHPO)
- 3a. Porter Cologne Water Quality Control Act (Water Boards, RWQCB)
- 3b. California Fish and Game Code (CDFW)
4. California Clean Air Act (CARB)
5. California Migratory Bird Treaty Act (CDFW)
6. Other State Laws
7. Executive Orders

Federal

1. Endangered Species Act (USFWS)
2. National Historic Preservation Act (SHPO)
3. Clean Water Act (USEPA, USACE)
 - Sections 401 and 402 administered by the Water Boards
 - Section 404 administered by USEPA and USACE
4. Clean Air Act (USEPA)
5. Migratory Bird Treaty Act (USFWS)
6. Other Federal Laws
7. Executive Orders

FEMA EHP Greensheet – Phase I



Environmental and Historic Preservation and Disaster Recovery

As you protect, repair, and rebuild your disaster-damaged communities, environmental and historic preservation issues may not seem like a priority. Whenever Federal funding is requested, however, certain environmental and historic preservation requirements must be fulfilled. This brochure is provided to help you better understand environmental and historic preservation factors that you must consider as you apply for FEMA funding. The information described here will help you avoid funding delays and other hurdles as you undertake recovery efforts.

The most important message is that the FEMA Environmental and Historic Preservation (EHP) staff is committed to helping you identify and meet environmental and historic preservation compliance responsibilities. This document provides an

overview of compliance requirements, procedures, and contacts. You can help by identifying any potential environmental or historic issues, concerns, or problems related to your projects and discuss these with FEMA staff as soon as possible.

Our work is performed under the direction of FEMA's Federal Coordinating Officer, Andrew Grant, and in close coordination with the California Governor's Office of Emergency Services (CalOES). The CalOES serves as the main point of contact for applicants, oversees grant administration, and is committed to following all environmental and historic preservation requirements in its disaster recovery operations.

As the Regional Environmental Officer, I pledge to assist you in understanding and complying with all applicable environmental and historic preservation requirements.

Emmalee Hancock leads the EHP unit at the Joint Field Office in 75 N. Fair Oaks, Pasadena, CA 91103. Please contact them, other FEMA EHP staff, CalOES, or FEMA Public Assistance staff for any environmental or historic preservation compliance assistance.

Sincerely,

Aaron Clark
Acting Regional Environmental Officer
FEMA Region 9
4/18/2024

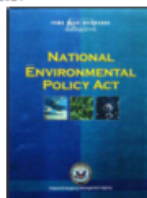


Figure 1. Image of National Environmental Policy Act book.

Environmental Laws and Project Requirements

The National Environmental Policy Act (NEPA) is the primary environmental law that directs Federal agencies to consider the environmental effects of their actions (including funding). In addition to NEPA, listed below are the other major environmental and historic preservation laws and executive orders that are triggered when protecting, rebuilding, or replacing public infrastructure.

Many activities can proceed without environmental or historic review, others require some consideration for environmental and historic preservation compliance. Some projects need very detailed reviews, such as consultation and (or) permitting/authorization with State, Tribal, and Federal regulatory agencies prior to work beginning. Failure to comply with applicable environmental and historic preservation laws and other requirements could jeopardize or delay potential funding.

- Federal Laws and Executive Orders**
- National Environmental Policy Act
 - National Historic Preservation Act
 - Endangered Species Act
 - Clean Water Act
 - Magnuson-Stevens Act
 - Executive Order 11988: Floodplain Management
 - Executive Order 11990: Protection of Wetlands
 - Executive Order 12096: Environmental Justice
- Additional Laws**
- Magnuson-Stevens Fishery Conservation Management Act
 - Reynolds Protection Act
 - Wild and Scenic Rivers Act
 - Coastal Zone Management Act

- Some projects may not need detailed review**
- Many types of emergency actions or debris removal
 - Repairs exactly to pre-disaster condition or temporary repairs
- Some projects require more extensive review**
- Debris disposal in areas not previously permitted
 - Projects that change the pre-disaster condition of the facility
 - Projects that include hazard mitigation or to facilities over 45 years old
 - Projects located near bodies of water, wetlands, or floodplains
- Some projects may need review and consultation**
- Informed or shasta projects
 - Projects that include new ground disturbance



Contacts

This brochure presents an overview of many environmental and historic preservation laws that FEMA and applicants must comply with before approving Public Assistance projects. There are, of course, details beyond the scope of this document that may prove useful for you to better understand environmental and historic preservation requirements. You may contact the agencies listed below for more information on these requirements and for guidance on environmental and historic preservation review, permitting, and approval processes. FEMA staff in the Joint Field Office and the Region IX Office can assist in answering questions and directing you to the appropriate agencies to ensure all environmental and historic preservation considerations are adequately addressed for FEMA-funded projects. More information is available at FEMA's EHP program website.

Acting FEMA Regional Environmental Officer (REO)
Aaron Clark, Acting REO
1111 Broadway, Suite 1200, Oakland, CA 94607-4052
Phone: (202) 318-8808
Email: aaron.clark@fema.dhs.gov

FEMA EHP Advisor
Emmalee Hancock, EHP Advisor
Phone: (626) 949-5000
Email: emmalee.hancock@fema.dhs.gov

FEMA Tribal Advisors
Pamela Joe, Tribal Advisor
Phone: (202) 341-2821
Email: pamela.joe@fema.dhs.gov

Christopher Poehmann, Tribal Advisor
Phone: (510) 725-7858
Email: christopher.poehmann@fema.dhs.gov

FEMA Public Assistance
Carter Long, Infrastructure Branch Director
Email: carter.long@fema.dhs.gov

FEMA AHB Hazard Mitigation
Richard Bowen,
Phone: (818) 539-9480
Email: Richard.bowen@fema.dhs.gov

FEMA Region IX NFIP – Floodplains
Broadway, Suite 1200 Oakland, CA 94607
Phone: (510) 627-7184

California Governor's Office of Emergency Services Patricia Nelson,
Environmental Officer
10370 Peter A. McCuen Boulevard, Mather, CA 95655
Phone: (916) 307-1030
Email: patricia.nelson@caloes.ca.gov
RecoveryEHP@caloes.ca.gov

Cabe Kearny, Tribal Advisor
Phone: (918) 928-9542
Email: Cabe.kearney@caloes.ca.gov

Alex Sharatmadan, Tribal Advisor
Phone: (916) 754-9842
Email: alex.sharatmadan@caloes.ca.gov

Helen López, Tribal Advisor
(916) 812-9009
Email: helen.lopez@caloes.ca.gov

California Environmental Protection Agency
Scott Lichtig, Deputy Secretary for Environmental Policy and Emergency Response
Contact: Bonnie Watz (916) 883-0958 Website: <https://caloes.ca.gov/>

California Dept. of Water Resources
Kelly Sude, NFIP Coordinator
3484 El Camino, Ste. 210, Sacramento, CA 95811
Email: kelly.sude@water.ca.gov
National Marine Fisheries Service (NMFS)
Website: <http://www.westcoast.fisheries.noaa.gov/>

US Fish and Wildlife Service
Website: <https://www.fws.gov/office/cr/cebbes-ecological-services/contactus>

California Dept. of Fish and Wildlife- Habitat Conservation Planning Branch
Marilyn P.O. Box 844209, Sacramento, CA 94244-2090
Email: hcpb@dfwre.ca.gov
Phone: (916) 445-0411

California Office of Historic Preservation
Julianne Polanco, State Historic Preservation Officer
3725 32nd Street, Suite 100 Sacramento, CA 95818
Phone: (916) 445-7000
Email: julianne.polanco@ohp.ca.gov

California Native American Heritage Commission
1550 Harbor Blvd, Suite 100, West Sacramento, CA 95891
Phone: (916) 373-3710
Email: nahc@nahc.ca.gov

California State Water Resource Control Boards
Website: https://www.waterboards.ca.gov/waterboards_main.html

U.S. Army Corps of Engineers Regulatory Program
Website: <https://uscce.wesapp.army.mil/apps/webappviewer/index.html?id=734e62c3298a38947790aa57a328e>

California Air Resource Board
Phone: (909) 242-4450
Email: help@arb.ca.gov Website: <https://www.arb.ca.gov/contactus>

EPA Hazardous Debris and Materials
75 Hawthorne Street, San Francisco, CA 4105
Phone: (415) 847-8000
Website: <https://www.epa.gov/aboutepa/forms/contact-epa-pacific-southwest-office-region-9/contactus>

California Dept. of Resources Recycling and Recovery
10011 Street Sacramento, CA 95814
Phone: (916) 322-4027
Website: <https://calrecycle.ca.gov/StateAgency/>

California Department of Public Health
Website: https://www.cdph.ca.gov/Pages/contact_us.aspx
Phone: (816) 558-1784

California Coastal Commission
Website: <https://coastal.ca.gov/cdc/cdr-forms.html#Appeal-Forms>



FEMA EHP Record of Environmental Considerations (Phase IV)

09/28/2021
13:44:19

FEDERAL EMERGENCY MANAGEMENT AGENCY
RECORD OF ENVIRONMENTAL CONSIDERATION (REC)

REC-01

Project PA-09-CA-4308-PW-01410
Title: ODGSWD1 - Oroville Dam Lower Gated Spillway Repair

NEPA DETERMINATION

Non Compliant Flag: No	EA Draft Date:	EA Final Date:
EA Public Notice Date:	EA Fonsi	Level: CATEX
EIS Notice of Intent	EIS ROD Date:	

Comment Category D, Water Control Authorities; 10% Complete; CALIFORNIA DEPARTMENT OF WATER RESOURCES (DWR); PA-09-CA-4308-PW-01410; ODGSWD1 - Oroville Dam Spillways Repairs

This PW addresses DWR LOP item No. 14 removal and replacement of the damaged chute and walls from Station 29+50 to Station 33+00 (1,350 LF) to current design standards; repair of energy dissipaters; construction of site access roads with associated drainage and erosion control measures; necessary engineering, environmental, inspection, and project management. Emergency Spillway; 39.544598, -121.49363. Total Cost Estimate: \$130,730,545.00.

The Federal Energy Regulatory Commission (Commission) has been designated as the lead Federal agency regarding compliance with Federal Environmental and Historic Preservation (EHP) Laws and Executive Orders for this Undertaking, including the activities that fall under this Sub-grant Application (PW), and the Department of Water Resources (DWR) has been designated as the commission's non-Federal representative for coordination with State and Federal Resource/Regulatory Agencies. FEMA has confirmed the scope and effects of this Undertaking are the same as that of the Undertaking reviewed by the Commission. FEMA has determined the Commission has complied with EHP Laws and EOs appropriately, and FEMA has no further EHP requirements for the Undertaking.

The Commission will remain responsible for compliance with EHP Laws and EOs. Should FEMA determine that the Commission's review was insufficient or involves interagency disagreements, FEMA may conduct additional review in accordance with EHP Laws and EOs.

See attached Oroville Spillway Emergency Response and Recovery Record of Correspondence and Regulatory Compliance California Department of Water Resources May 25, 2017. FEMA has confirmed that copies of all designations, correspondence, concurrence, and permits are on file with the official project files (EMMIE Case Management).

This project has been determined to be Statutorily Excluded from the need to prepare either an Environmental Impact Statement or Environmental Assessment in accordance with Section 316 of the Stafford Act. Particular attention should be given to the project conditions before and during project implementation. Failure to comply with these conditions may jeopardize federal assistance including funding. See EHP General Comments for additional comments and conditions.
- Iconaw1 - 05/23/2018 15:37:45 GMT

Version/Amendment 0 is for a cost adjustment only; the original Environmental Determination of May 23, 2018 remains valid. This action will not affect the previous environmental clearance. No further Environmental/Historic/Floodplain review is required unless there is a change to the scope of work. - cdoylet - 02/11/2019 21:55:46 GMT

Version 1 is for a change in the scope of work for the completion of an improved project which included widening access roads, creating new roads, hauling, removal of debris, tree removal, providing equipment and materials to support repairs, placing rock, emergency lighting, and other emergency support activities; the original Version (0) Environmental Determination of May 23, 2018 remains valid. This action will not affect the previous environmental clearance, as the Federal Energy Regulatory Commission has been designated as the Lead Federal Agency regarding compliance with Federal Environmental and Historic Preservation (EHP) Laws and Executive Orders for this Undertaking, including the activities that fall under this Sub-grant Application (PW), and the Department of Water Resources (DWR) has been designated as the Commission's non-Federal representative for coordination with State and Federal Resource/Regulatory Agencies. All previous conditions must still be met prior to the start of any construction activities. No further review will be forthcoming unless there should be a change in the scope of work. - mjohns93 - 10/27/2020 21:52:25 GMT

Version 2 is for an administrative action only; the original Version (0) Environmental Determination of 10/27/2020 remains valid. This action will not affect the previous environmental clearance. All previous conditions must still be met prior to the start of any

- Clean Air Act (CAA)
- Coastal Barrier Resources Act (CBRA)
- Clean Water Act (CWA)
- Coastal Zone Management Act (CZMA)
- Executive Order 11988 - Floodplains
- Executive Order 11990 - Wetlands
- Executive Order 12898 - Environmental Justice for Low Income and Minority Populations
- Endangered Species Act (ESA)
- Farmland Protection Policy Act (FPPA)
- Migratory Bird Treaty Act (MBTA)
- Magnuson-Stevens Fishery Conservation and Management Act (MSA)
- National Historic Preservation Act (NHPA)
- Wild and Scenic Rivers Act (WSR)
- **Conditions: NEPA/CEQA and other considerations**

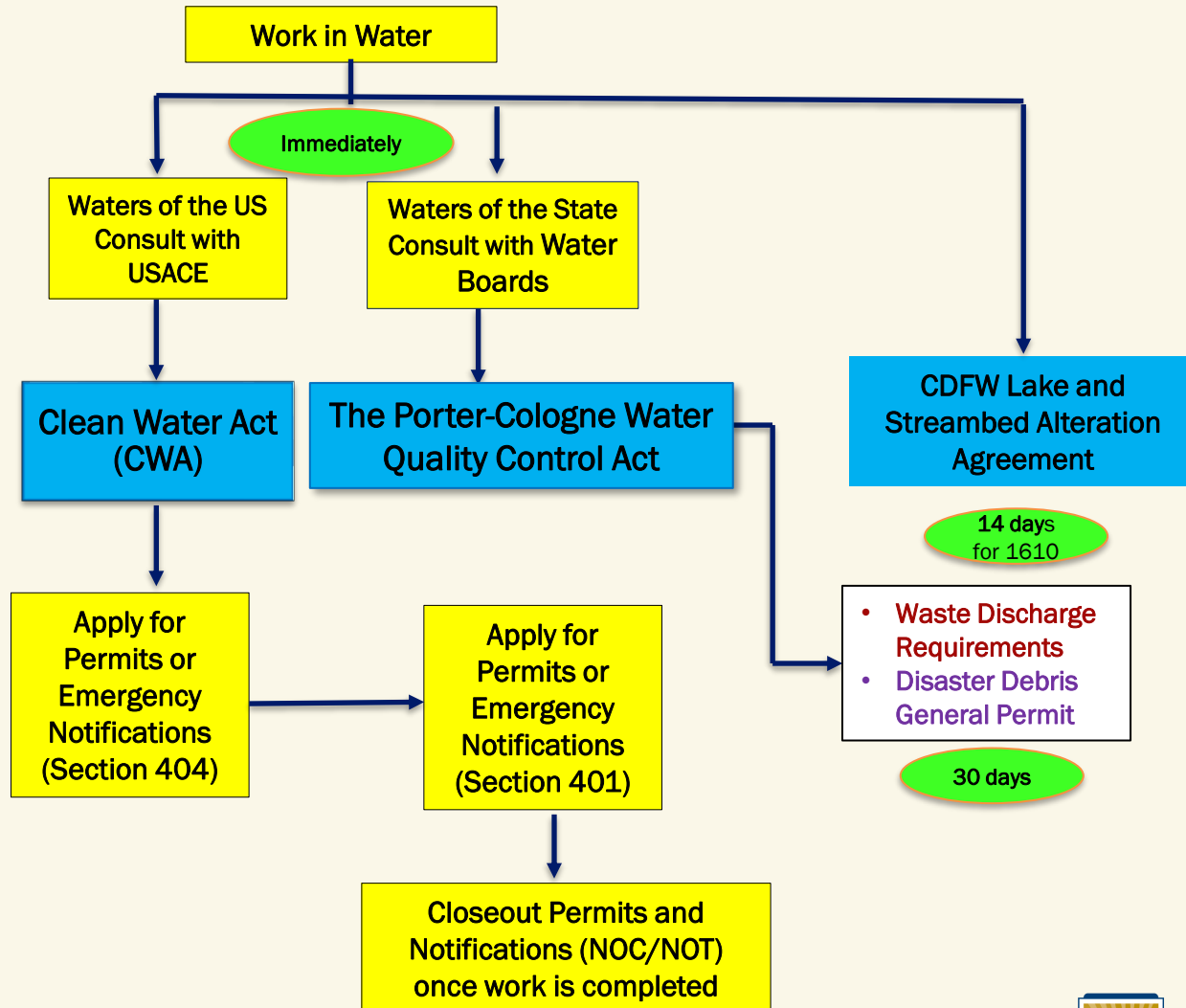
Work in-or-near Water

Examples:

- Culverts
- Wetlands
- Banks
- Watercourses

Concepts:

- Perennial
- Intermittent
- Ephemeral
- Man made



Applicant Permit Due

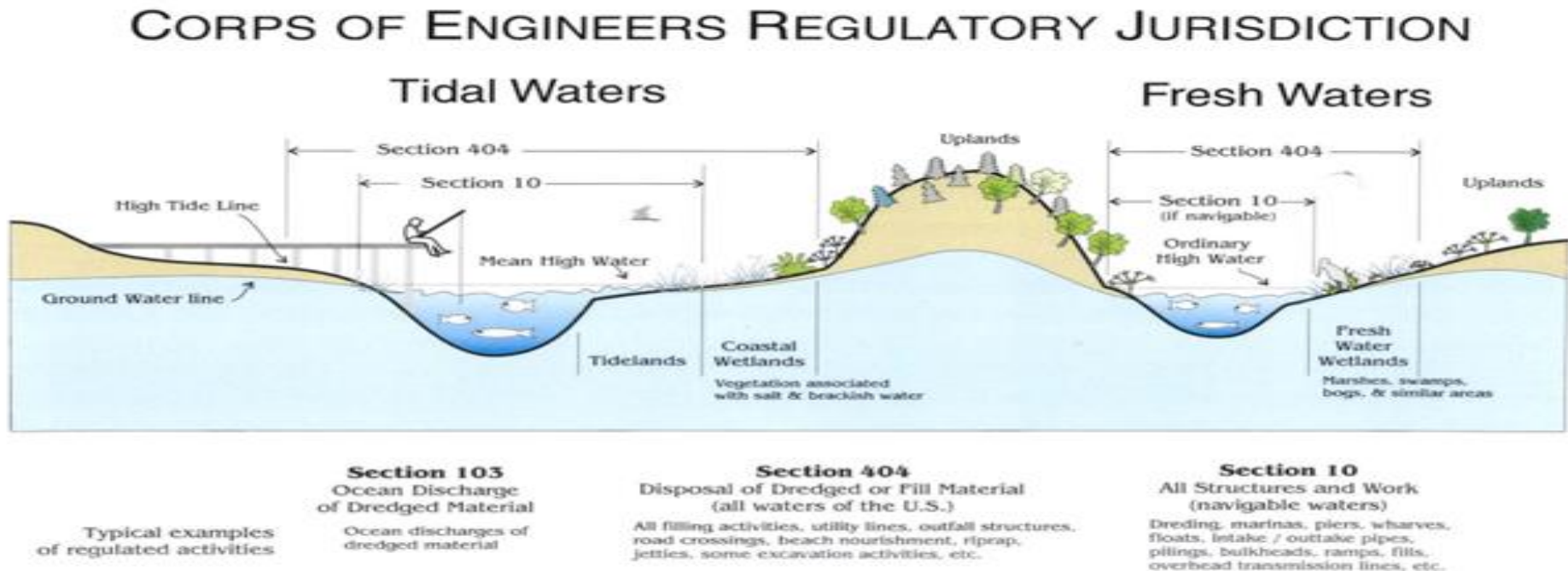
USACE/Water Boards Jurisdiction

The United States Army Corps of Engineers (USACE) includes two broad categories of water:

- Navigable Waters of the United States
- Waters of the United States (perennial and intermittent waters, and wetlands with surface connection to waters)
- [404: ENG4345](#) and 401: [Water Quality Certification](#)

Without such categories the Water Boards take on the category:

- Waters of the State (almost everything)



Ordinary High Water Mark Field Guides



A Field Guide to the Identification of the Ordinary High-Water Mark (OHWM) in the Arid West Region of the Western United States



A Field Guide to the Identification of the Ordinary High Water Mark (OHWM) in the Western Mountains, Valleys, and Coast Region of the United States

Water Boards Jurisdiction

- STATE WATER RESOURCES CONTROL BOARD ORDER WQ 2020-0004-DWQ GENERAL WASTE DISCHARGE REQUIREMENTS FOR DISASTER-RELATED WASTES
- 401 WATER QUALITY CERTIFICATION/WASTE DISCHARGE REQUIREMENTS
- NPDES STORM WATER PERMITS (Clean Water Act 402)



- Debris
 - Vegetative
 - Hazardous

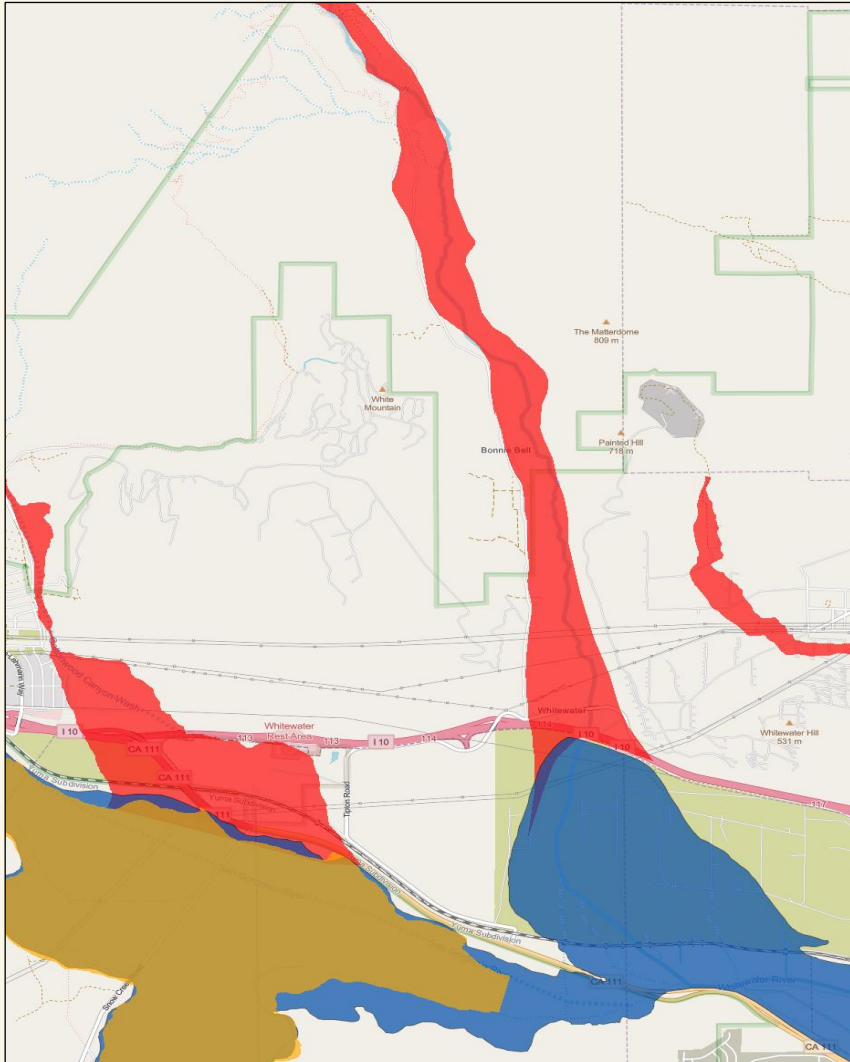


https://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2020/wqo2020_0004_dwq.pdf

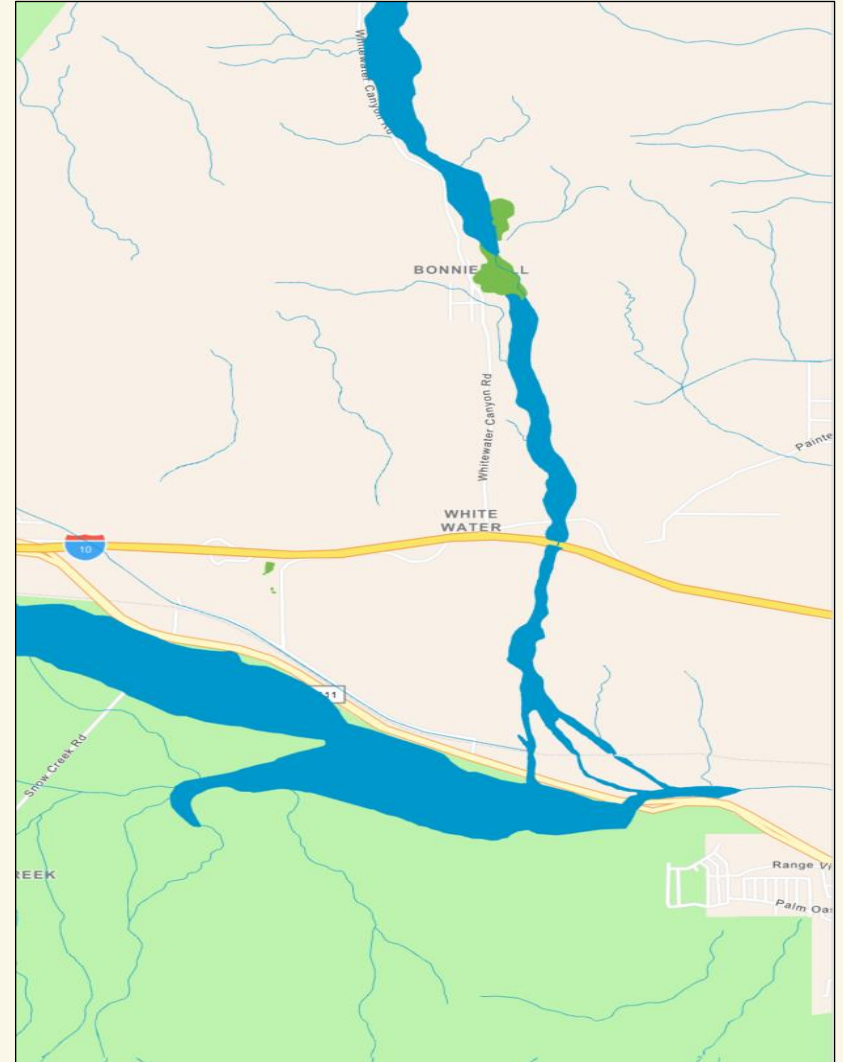


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Floodplains and Wetlands



USA Flood Hazard



National Wetland Inventory

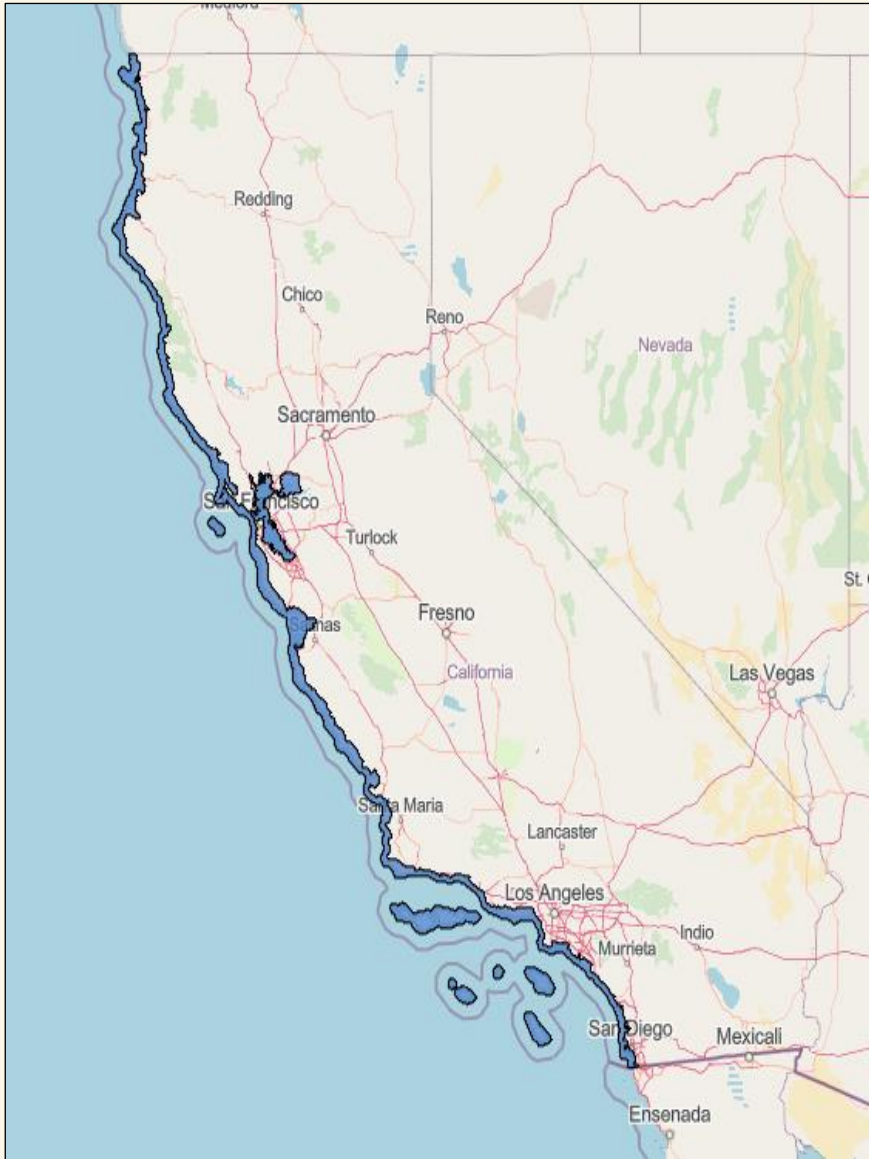


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Work in Floodplains and Wetlands



CA Coastal Commission Jurisdiction



California Coastal Zone Management Act

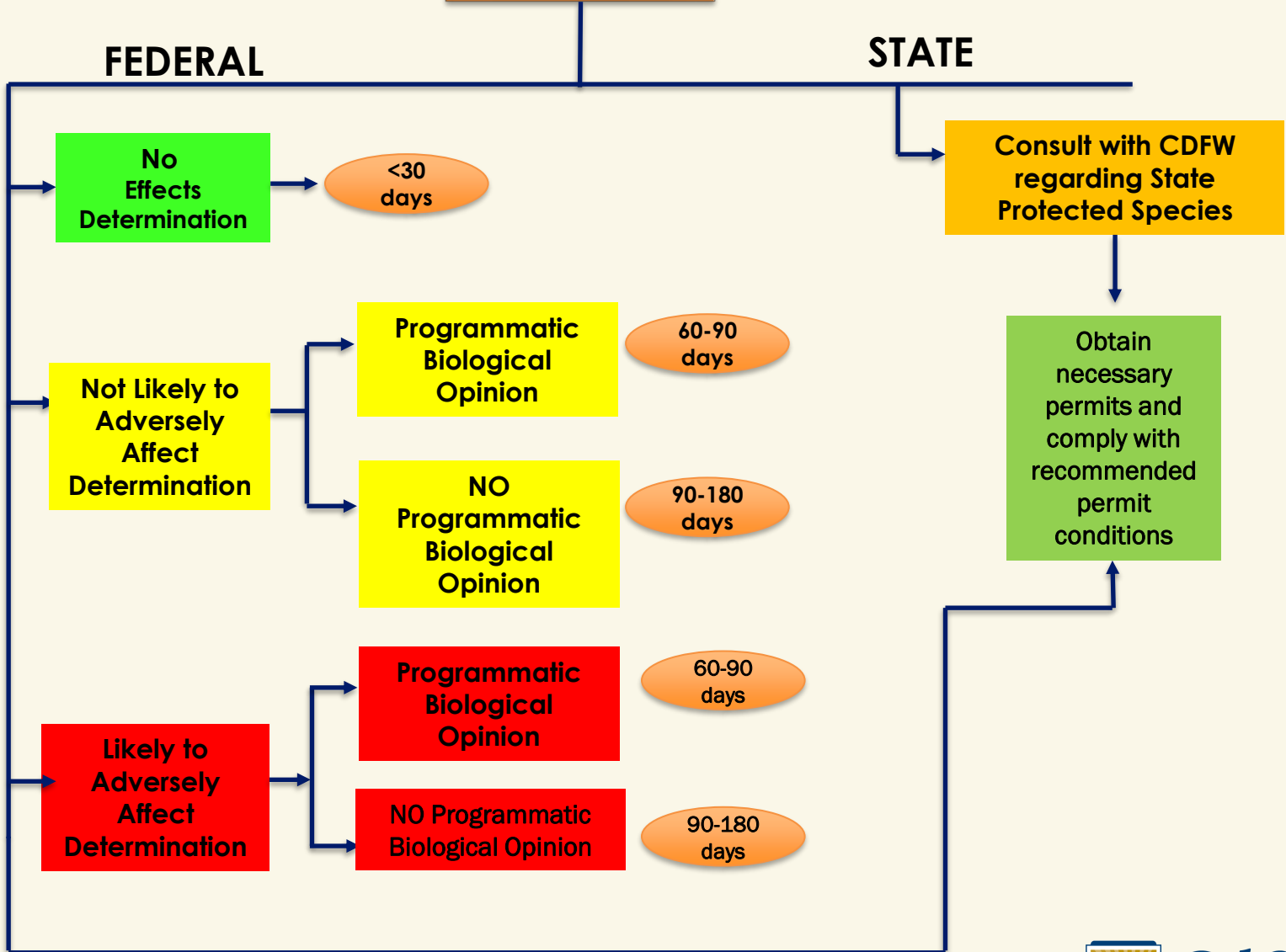
- 1000 yards inland from the coast
- Activity/Trigger: Construction work within the Coastal Management Zone (e.g., Placement of segregated fill on a beach).
- If immediate action is necessary contact within three days (72 hours) of the disaster or discovery of the danger,
- 7 days to obtain Emergency Permits:

<https://documents.coastal.ca.gov/assets/cdp/emergency-cdp-appl.pdf>



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Endangered Species Act



USFWS/NMFS Jurisdiction

- **Endangered Species Act**
 - **Biological Surveys – Desktop/Field (Hire a biologist)**
 - **Section 7 requires federal agencies to consult with US Fish and Wildlife Service (this can always be informally preempted by the applicant)**
 - **Migratory Bird Treaty Act**
 - **Keep in contact US Fish and Wildlife Service and/or National Marine Fisheries Service Directly**
 - ✓ **Incidental Take Permits**
 - ✓ **Special Purpose Permits**
 - ✓ **Programmatic Biological Opinions:**
 - **Avoidance and Minimization Measures**
- **Use iPac**
 - <https://ipac.ecosphere.fws.gov/>



CDFW Jurisdiction

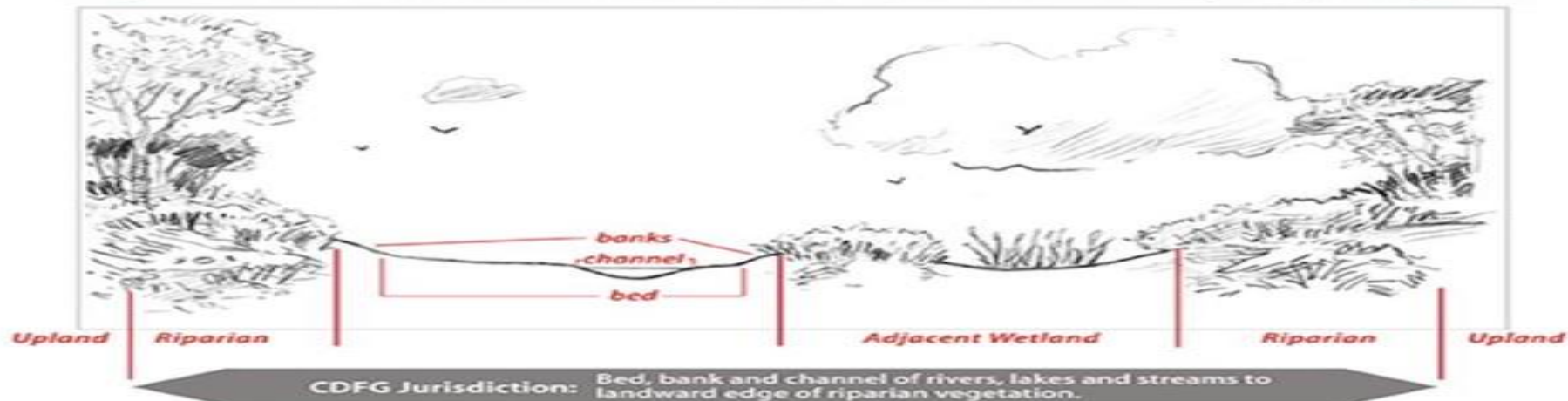
- Fish and Game Code Section 1600
<https://epims.wildlife.ca.gov/index.do>
 - 1602 Permanent Projects
 - 1610 Emergency Notification
- CA Endangered Species Act and CA Migratory Bird Protection Act
 - Biological Surveys– Desktop/Field (e.g. CNDDDB)
 - ✓ [bios6app \(ca.gov\)](#)
 - Contact CDFW
 - ✓ Incidental Take Permits
 - ✓ Best Management Practices and Species-Specific Measures



Willow Flycatcher

Illustration © [David Allen Sibley](#).

CDFG jurisdiction includes the bed, banks and channel of lakes, rivers and streams and includes adjacent riparian vegetation.



National Historic Preservation Act/Cultural Resource Protections

Disaster Event

Federal Declaration

Federal Declaration and/or State Proclamation

NEPA Process

CEQA Process

Do NOT start work until FEMA EHP review is complete

No Potential to Effect

Lead agency or Contractor Should complete a review completed by qualified archaeologists.

Obtaining all necessary SHPO and Tribal Consultations

Programmatic Allowance

No Adverse Effect to Historic Properties

No Historic Properties Affected

Potential to impact historic or precontact resources

Tribal Consultation AB-52

Outreach to the Native American Heritage Commisison

Write contact letters

Consult

Archaeological and Cultural Resource Laws

- National Historic Preservation Act Section 106
 - Protection of Historic Structures
 - Tribal and Cultural Resources
 - Tribal Consultation
- Assembly Bill (AB) 52 (applied under CEQA)
- Relevant to Ground Disturbing Activities

Ground Disturbing Activities

The following activities are considered ground-disturbing and may impact cultural and tribal resources:

- Debris Removal
- Tree felling and dragging/bucking
- Driving tracked vehicles offroad
- Establishing temporary water crossings and access routes
- Anything where soil below 2-3 inches is churned or excavated.

Cultural Resources

Precontact Resources



Bedrock Mortars



Historic Resources



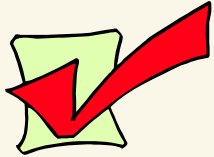
Project Description

- **Site-Specific Plan, which includes:**
 - Address/Location
 - Aerial map,
 - A description of the site, access to it, and damages,
 - Ground Disturbing Activities, Location, Depth and Dimensions
 - A description of pre-disaster uses and impacts,
 - A description of temporary facilities and equipment stored,
 - A description of necessary construction mitigation Best Management Practices
 - Construction Dates (start to finish)
 - Land Ownership
 - Lead NEPA and CEQA agency
 - National Pollution Discharge Elimination coverage, if applicable
- Encroachment/Use Permit
 - CalTrans, County or Municipal
- Site assessment by a qualified biologist for Endangered Species Act and California Endangered Species Act
- Site assessment by a qualified Archaeologist for National Historic Preservation Act, or general cultural/tribal resource protections (AB52, CalFire, etc.)
- Section 404 and 401 of the Clean Water Act permit, Fish and Game Code Section 1600 Lake and Streambed Alteration Agreement, compliance with Executive Order 11990 Protection of Wetlands, and Executive Order 11988 - Floodplain Management
- Documentation that the site is not on the Hazardous Waste and Substances sites

Exercise Define Project and Applicable Laws

- Clean Water Act?
- Porter Cologne Act?
- Fish and Game Code?
- Endangered Species?
- National Historic Preservation Act?
- Floodplains or Wetlands?
- Other laws?





Important Points

1. **Identify and contact the responsible state and federal resource agencies** before work can begin
2. **Only when EHP process is complete with those agencies and documented**, can project activities or construction begin without putting obligation of funding at risk;
3. **Sub-Applicants and Sub-Recipients are responsible** for all EHP compliance requirements;
4. **All applicable environmental laws must be addressed** in the EHP process **even if** a Statutory or a Categorical CEQA Exemption, or, a Statutory or Categorical NEPA Exclusion (e.g., SX or CX) is obtained; and
5. **A change in a project scope will require the process to restart** to address the modification which may delay project start.
6. **Contact CalOES PA, HMGP, and EHP** to help identify appropriate Federal and State Agency Representatives that need to be consulted with on your projects. Do not make recommendations without consulting.
7. **Keep copies of** all correspondence and other documents.



Questions?

Patricia Nelson,
Environmental Officer,
916-823-1945

patricia.nelson@caloes.ca.gov

Ramzi Ibrahim,
CalOES EHP Liaison
916-926-9536

ramzi.ibrahim@caloes.ca.gov

recoveryehp@caloes.ca.gov

- **Technical Resources: Environmental Directory and Fact Sheets**



[Cal OES website - Environmental-Historic Preservation webpage](https://www.caloes.ca.gov/ehp)

<https://www.caloes.ca.gov/ehp>

[Jurisdictions Map](http://tinyurl.com/ycbxth3w)

<http://tinyurl.com/ycbxth3w>





Cal OES

GOVERNOR'S OFFICE
OF EMERGENCY SERVICES

**Public Assistance Program
Project Worksheets
Information and Preparation**

Project Worksheet Preparation

- Prepared in FEMA's Grants Portal using estimated or actual costs for repairs
- Sent to Subrecipient/Applicant for concurrence
- Entered into the federal database and obligated by FEMA
- Cal OES processes and manages
- Subrecipient/Applicant notified of PW obligation and pending payments

Small and Large Projects

Federal Fiscal Year **2024 (10/1/2023 – 9/30/2024)**

Small project threshold is **\$3,900** up to **\$1,037,000**

Large project threshold is **\$1,037,000** and greater

Small Projects

- Any eligible work with aggregate costs below the threshold
- Funding is based on estimated costs, if actual costs are not available
- Paid automatically when obligated by FEMA
- Net Small Project Overrun (NSPO) appeal

Large Projects

- Any eligible work with aggregate costs over the threshold
- Payment(s) must be requested unless 100% complete during PW preparation
- Funding initially based on actual or estimated costs
- Final funding based on documented eligible actual costs



Public Assistance Simplified Procedures

([FEMA Policy FP-104-23-001](#))

This policy streamlines application procedure for Small Project funding under the PA program:

- Applies to all PA Small Projects funded under major disasters and emergencies declared on or after date of issuance (August 3, 2022)
 - Does not apply to Management Costs funded under Stafford Act Section 324 or Donated Resources
- FEMA will accept Applicants' self-certified estimates and summary information
 - Must include information to support estimate and certify claimed costs directly correlate to eligible work in the Project Application
- FEMA does not adjust estimated costs to the actual incurred amount
- Applicants must continue to retain all source documentation, including project eligibility records and financial records, for 3 years after the date the Recipient submits to FEMA Certification of completion of the last Small Project
- If requested, Applicants must provide documentation to FEMA and/or Cal OES



Expedited Projects for Emergency Work

- ❑ FEMA may provide expedited funding for Emergency Work Projects (Category A or B) that meet or exceed the Large Project threshold. FEMA funds Expedited Projects at 50 percent of the Federal share of the estimated project cost.
- ❑ Requests for Expedited Projects must be submitted to FEMA within 60 days of the Applicant's Recovery Scoping Meeting. To support its request, the Applicant must provide enough information for FEMA to validate that the work and costs are eligible. FEMA will work to obligate funding within 90 days of receipt of the request.
- ❑ FEMA provides the Federal cost share for the remaining 50 percent of the project cost once the Applicant provides all documentation required to support the estimated project cost for a non-Expedited Project.
- ❑ Cal OES still requires documentation of expenditures to provide funding on a reimbursement basis, even on expedited projects.

FEMA PA Management Costs (Interim) (Category Z)

Management Costs are identified as indirect, direct, and other administrative labor costs related to developing eligible Public Assistance projects and receiving reimbursement. Activities may include, but are not limited to:

- Preliminary Damage Assessments
- Meetings regarding PA Program and overall PA damage claim
- Organizing PA damage sites into logical groups
- Preparing correspondence
- Site inspections
- Travel expenses
- Developing the detailed site-specific damage description
- Evaluating Section 406 hazard mitigation measures
- Preparing Small and Large Projects
- Collecting, copying, filing, or submitting documents to support a claim
- Reviewing Project Worksheets
- Requesting disbursement of PA funds



FEMA PA

Management Costs

- ❑ FEMA awards Management Costs up to five percent of actual eligible Public Assistance project costs, including the non-federal share, after insurance and any other deductions. Management Costs are funded at 100 percent federal share via Category Z PWs.
- ❑ Category B Donated Resources PWs are not included in the calculation, since not considered project awards.

Section 428 Alternative Procedures

- Is the first option considered for all Large Permanent Work projects
- FEMA transmits a **fixed cost estimate** via Grants Portal for applicant consideration
 - based on the estimated amount to rebuild to pre-disaster design and function
 - Applicant must respond within 30 days of transmittal
 - disagreement on damage, SOW, or cost must be resolved prior to acceptance
- Applicant must accept fixed-cost estimate within 18 months from the disaster declaration for the project to be considered an Alternative Procedures project
 - any project that does not have a fixed cost accepted within this timeframe will be processed using standard PA policies (based on actual costs)
 - FEMA will consider time extensions on a case-by-case basis
- FEMA will not adjust fixed-cost amount after acceptance of the offer (except for insurance reductions, non-compliance, result of audit)
- FEMA will not consider Appeals on Alternative Procedures projects

Benefits of the program

- No requirement to rebuild communities back to what existed prior to the disaster.
- Applicants can share funds across all Permanent Work Pilot Projects.
- Excess funds may be used to reduce risk and improve future disaster operations.
- Hazard mitigation funding may be added to Replacement Projects.



Project Formulation

Improved Projects

- ❑ Projects with improvements to the disaster-related scope of work
- ❑ May be requested for both small and large projects
- ❑ Permanent work projects only
- ❑ Must be approved by Cal OES and reviewed by FEMA **PRIOR** to construction
- ❑ Federal funding is capped at federal share of estimated costs of the original PW, or actual costs of the improved project, whichever is less



Project Formulation

Alternate Project

- ❑ Occurs when Subrecipient/Applicant determines public welfare would not be best served by restoring the damaged facility
- ❑ May be requested for both small and large permanent projects
- ❑ As a result of the Disaster Recovery Reform Act, there is no longer a 10% reduction
- ❑ Insurance must be obtained/maintained on:
 - Contents in an amount equal to the alternate project funding
 - Vehicles
 - Buildings

Statutory Timeline

TYPES OF WORK	TIME FROM DECLARATION
Emergency Work	6 Months
Permanent Work	18 Months

Time Extensions for Extenuating Circumstances

Time Extension requests for obligated projects must be submitted in writing via email to DisasterRecovery@caloes.ca.gov and must contain:

- Project Worksheet Number (PW #)
- Category of Work
- Status or progress on permitting for project
- Anticipated completion date
- Percentage of work completed
- Construction schedule
- Reason for the delay
(beyond control of Subrecipient/Applicant)
- Dates of previous time extension

PW Version Requests

PW Version requests must be submitted in writing via email to DisasterRecovery@caloes.ca.gov and must contain:

- Detailed changes to the Scope of Work (SOW) and/or Cost
- Reason for changes
 - If more cost-effective repair: both cost estimates
 - If original SOW not feasible: supporting documentation such as technical reports
 - If hidden damage (must be found during performance of eligible work):
 - Documentation substantiating the damage is related to the declared incident;
 - Photographs documenting damage; and
 - Change orders
- Construction timeline / project schedule
 - Time extension, if necessary

Required Documents for Payment

Cal OES' Financial Processing Unit (Previously Grants Processing Unit) is required to have the following forms on file for each event in order to process all payments:

- Project Assurances for Federal Assistance (OES-FPD-089)
- Designation of Applicant's Agent Resolution (OES-FPD-130/130SA)
- Federal Financial Accountability and Transparency Act (FFATA) Financial Disclosure (OES-FPD-011)

Questions? Please contact Cal OES' Financial Processing Unit (FPU) at
(Previously Grants Processing Unit)

RecoveryPayments@caloes.ca.gov



Required Documents for Large Project Reimbursement

Cal OES' Financial Processing Unit (Previously Grants Processing Unit) is required to have the following forms on file for each event **in order to process payments on Large Projects written at less than 100% complete:**

- Large Project Reimbursement Request (OES-FPD-132)
- All supporting cost documentation for this request. (Invoices, timecards, activity logs (214s), equipment logs, etc.)

Questions? Please contact Cal OES' Financial Processing Unit (FPU) at
(Previously Grants Processing Unit)

RecoveryPayments@caloes.ca.gov



Validate As You Go (VAYGo)

- ❑ “VAYGo” is FEMA’s new process to ensure proper disbursement of Federal Assistance funds that are drawn down by the Subrecipient
- ❑ FEMA will require the Recipient to validate any funds requested by the Subrecipient to ensure Federal regulations are followed and mitigate any ineligible costs
- ❑ Subrecipients must submit all cost documentation and proof of payment in Grants Portal to allow the Recipient to validate the request and associated costs prior to draw down
- ❑ VAYGo allows correction of issues instead of waiting until the closeout process to identify and remedy errors



Payment Notification

- ❑ Cal OES' Financial Processing Unit (Previously Grants Processing Unit) sends a notification email to the Authorized Agents (AA) and Authorized Contacts identified on the AA Names form (OES-FPD-012) before a State Warrant is issued
- ❑ All funding disbursements are issued on State Warrants
- ❑ State Warrants are prepared and mailed by State Controller's Office
Note: ACH (Automatic Clearing House) disbursements, and electronic fund transfers are not available

Quarterly Reports, Closeout, Appeals, and Audits

Quarterly Progress Reports

A tool for FEMA and the Cal OES to track the progress of open Large Projects on a quarterly basis.

Project Reconciliation and Closeout

The purpose of closeout is for the Applicant and Cal OES to certify that all work has been completed.

Appeals

Applicants may appeal any FEMA determination related to an application for, or the provision of, assistance under the PA Program.

Audits

Recipients and Subrecipients are subject to Federal and non-Federal audits.



Appeal and Arbitration Process

Any determination related to Federal Assistance may be appealed.

There are two opportunities for appeal (or possibly arbitrate in lieu of appeal):

- 1st Appeal to the FEMA Regional Administrator, Region IX
- 2nd Appeal to the FEMA Assistant Administrator, Disaster Assistance Directorate

The appeal must be submitted in writing via Grants Portal within 60 days from issuance of FEMA's determination (in Grants Portal) of the action being appealed.

The State has 60 days from receipt of the appeal to forward it to FEMA who has 90 days to render a decision.

*All correspondence for determinations and appeals will be sent through Grants Portal.



Appeal and Arbitration Process

Appeal Letter Requirements

All appeals must:

- Contain all documented justification supporting the applicant or recipient's position;
- Specify the amount in dispute, as applicable; and
- Specify the provisions in Federal law, regulation, or policy with which the applicant or recipient believes the FEMA determination was inconsistent.



Appeal and Arbitration Process

As amended in Section 1219 of the DRRA, to be eligible for Section 423 arbitration, a Public Assistance Applicant's request must meet all three of the following conditions:

[FEMA Arbitration Fact Sheet](#)

[CBCA Arbitration Fact Sheet](#)

1. The dispute arises from a disaster declared after January 1, 2016;
2. The disputed amount exceeds \$500,000 (or \$100,000 if the Applicant is in a "rural area," defined as having a population of less than 200,000 living outside an urbanized area; and
3. The Applicant filed a first level appeal with FEMA pursuant to the time requirements in 44 CFR 206.206



Appeal and Arbitration Process

Public Assistance Applicants who seek to challenge a FEMA first level appeal decision have two options, but also a deadline.

- ❑ Applicants must file a second appeal in writing via Grants Portal within 60 days after viewing the first appeal decision in Grants Portal. If the Applicant takes neither action, the first level appeal becomes the final agency determination.
- ❑ Public Assistance Applicants may request arbitration by emailing the request to the Civilian Board of Contract Appeals (CBCA) at **cbca.efile@cbca.gov**; an applicant must submit its request for arbitration in writing simultaneously to the recipient, the FEMA Regional Administrator, and the arbitration administrator (the CBCA).
- ❑ If the Applicant does not receive a first level appeal decision within 180 days of submission, they may withdraw the first level appeal and request arbitration.
- ❑ The results of arbitration becomes the final determination.



Final Claim (Closeout) Process

- ❑ Final inspection requirements
 - All Projects must be closed within 90 days of completion
 - Small Projects are closed in aggregate
 - Must be submitted within 60 days of the last small project's completion
 - Net Small Project Overrun (NSPO)
 - Adjustment(s) made for actual costs for large projects
 - Retention released
 - CDAA Cost-share requires full documentation
- ❑ Initiate the Closeout process by marking your project 100% complete in the Cal OES Engage Community Portal. For questions regarding the portal, contact DisasterRecovery@caloes.ca.gov

Documentation and Record Keeping

Stafford Act Section 705 - Imposes a three (3) year limit on FEMA's authority to recover payments made to State, Tribal, or local government Recipients and Subrecipients unless there is evidence of fraud.

- The Applicant must maintain all original documentation supporting project costs claimed.
- The Recipient and the Applicant must keep all financial and program documentation for 3 years after the date identified in the Recipient's Audit Waiver Letter.
- Records are subject to audit by State auditors, FEMA, the U.S. Department of Homeland Security Office of Inspector General, and the U.S. Government Accountability Office.



OIG Audits

The Office of the Inspector General (OIG), at the Department of Homeland Security (DHS), determines whether Subrecipients can account for expended FEMA grant funding, per federal regulations and guidelines.



The OIG typically audits:

- Costs related to the FEMA-approved scope of work
- Procurement procedures: Federal, State, and local requirements
- Contract costs
- Force Account Labor, Materials, and Equipment costs
- Insurance recovery costs/duplicative costs
- Other

**Procurement Training Available, Web Search:
“Procurement Disaster Assistance Team”*





Cal OES

GOVERNOR'S OFFICE
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Hazard Mitigation Assistance Overview

What is Hazard Mitigation?

Any sustained action taken to reduce or eliminate long-term risk to people and property from natural hazard events and their effects.

The long-term impact of hazard mitigation actions can be distinguished from those actions that are more closely associated with immediate preparedness, response and recovery activities, as hazard mitigation is the only emergency management phase specifically dedicated to breaking the cycle of damage, reconstruction and repeated damage.

MITIGATE HAZARDS



Hazard Mitigation Programs



HMGP

Available after a major disaster declaration to reduce risks from natural hazards



FMA (and FMA Swift Current)

Annual, Reduces or eliminates risk of repetitive flood damage to buildings and structures insured under NFIP



HMGP Post-Fire

Prioritizes communities impacted by wildfire to mitigate fire and post-fire hazards



BRIC

Annual, nationally competitive funding for new and innovative infrastructure projects that reduce risks from natural hazards

***Rehabilitation of High Hazard Potential Dam (HHPD) Grant Program:** provides technical, planning, design, and construction assistance in the form of grants for rehabilitation of eligible high hazard potential dam in jurisdictions that address dam hazards in their LHMPs (managed by DWR)

Who's Eligible?

- State Agencies
- Local Governments: Counties, Cities, Towns, etc.
- Special Districts
- Federally Recognized Tribes
- Private Nonprofit Organizations (PNPs) (not eligible for BRIC/FMA)

The entity must have a FEMA-approved and locally adopted LHMP

- PNPs in HMGP are exempt from this requirement

Eligible Activities

- **Planning Grants:** deliverable is a FEMA-approved LHMP (new or update)
- **Planning-related activity grants** aim to integrate LHMPs to other planning mechanisms, outreach/education for your LHMP or floodplain management
- **Project scoping** should be used when the mitigation problem and solution are not known, and you need to evaluate a potential intervention (i.e. the proposed activity results in a resource, strategy, or tangible mitigation product that will reduce or eliminate risk and damage from future flooding and increase resilience)
- **Construction projects:** structural mitigation (A/D, elevation, reconstruction), drainage improvements, flood control, nature-based solutions.
- **Nature-based solutions** include, but are not limited to, restoration of grasslands, rivers, floodplains, wetlands, dunes, and reefs; living shorelines; soil stabilization; aquiver storage and recovery; bioretention systems



Submitting a Subgrant-Cal OES Process

- Request a Project Scoping Call
- Submit a Notice of Interest (NOI) – accepted anytime, priority given to subapplicants who submit by deadlines
- NOI reviewed by Cal OES, subapplicants with eligible activities will be invited to attend a subapplication development webinar/workshops
- Subapplication submitted to Cal OES
- Cal OES reviews subapplications
 - Request for Information (RFI)
- Cal OES submits all subapplications to FEMA
 - FEMA may have additional RFIs



Cal OES Technical Assistance

Identification of the Problem

- Problem statement and history of hazards
- What is the hazard and risk?
- How long has it been occurring?
- What are the damages and loss of function/service?
- Note quantitative and qualitative losses
- Future conditions (SLR, climate impacts, demographic changes, etc.)
- How is climate change worsening the problem?



Potential Projects/Solutions

- Include:
 - Hazard Mitigation Planning
 - Planning Studies
 - Feasibility Studies
 - Capital Project Plans
 - New budgetary need requests
 - Comprehensive stakeholder engagement for project identification
- Do you know if the solution is feasible?
- What may be the challenges with implementation?



Technical Assistance (TA)

- Assistance with project scoping
- How to quickly identify projects that may be eligible, feasibility, cost-effective, and competitive
- Goal is to identify projects that will be competitive with FEMA's priorities
- Focus time and resources on good, fundable projects

Additional Points:

- ❖ Ensure detailed Scope of Work (SoW)
 - Location
 - Purpose
 - Approach
 - Feasibility
 - Expected outcomes
 - Benefits of the activity
- ❖ Cost estimate and narrative describing the anticipated costs
- ❖ Data collection for cost-effectiveness screening
- ❖ A FEMA credible Benefit Cost Analysis (BCA) is key. If the project is preliminary, phase the project and include a rerun of the BCA as a Phase I deliverable



Resilience Branch – Technical Assistance Division

Cal OES established the Resilience Branch to provide enhanced technical assistance to all eligible subapplicants in the pursuit of funding for Hazard Mitigation and Resiliency Projects.

The Division houses three (3) Technical Assistance Units comprised of subject matter experts who will support in the development of a grant subapplication that is eligible, feasible, and cost effective. The team will also assist in identifying alternative funding opportunities for projects that promote resilience but may not meet the requirements of the FEMA Hazard Mitigation programs.

- **Climate & Flooding**
- **Wildfire**
- **Infrastructure**

Our goal is to develop subapplications in advance of the next available funding opportunity to streamline the application process and ensure that all jurisdictions can apply for mitigation funding.



Contact HMA



General Inquiries

HMA@caloes.ca.gov



Grant Information
& Timelines

www.caloes.ca.gov/hmgrp

Scan to sign up for
Hazard Mitigation
Program Updates &
Notifications



Helpful Information

FEMA-4769-DR-CA

Incident Period: January 31, 2024 – February 9, 2024

RPA DEADLINE

May 13, 2024 – Butte, Glenn, Los Angeles, Monterey, San Luis Obispo, Santa Barbara, Santa Cruz, Sutter, and Ventura counties, and all State Agencies

Have Questions?

Email: DisasterRecovery@caloes.ca.gov

Other Recommended Resources

- FEMA PA Grants Portal - Grants Manager YouTube Channel: [FEMA's Grants Portal Video Series](#)
- Technical and training support at FEMA's PA Grants Portal Hotline: **(866) 337-8448**
- Grants Portal inbox: **FEMA-Recovery-PA-Grants@fema.dhs.gov**

Request for FEMA Public Assistance

RPA Deadlines

Submit all RPAs via Grants Portal

No Later Than

May 13, 2024

All Other Correspondence:

Mr. Robert Larsen, State Public Assistance Officer

Cal OES, Public Assistance Division

3650 Schriever Avenue

Mather, CA 95655

ATTN: FEMA-4750-DR-CA

OR Email:

DisasterRecovery@caloes.ca.gov

Questions?

Email: DisasterRecovery@caloes.ca.gov



Authorities

Statutes

Robert T. Stafford Disaster Relief and Emergency Assistance Act, as Amended (Stafford Act), Title 42 of the United States Code (U.S.C.) § 5121 et seq.

- Title I - Findings, Declarations and Definitions
- Title III - Major Disaster and Emergency Assistance Administration
- Title IV – Major Disaster Assistance Programs
- Title V – Emergency Assistance
- Title VII – Miscellaneous

Regulations

Title 44 of the Code of Federal Regulations (C.F.R.), Emergency Management and Assistance

- Part 206 Subpart G, Public Assistance Project Administration
- Part 206 Subpart H, Public Assistance Eligibility
- Part 206 Subpart I, Public Assistance Insurance Requirements

2 C.F.R. Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards



Thank You

Scan to
download
fillable PDFS



(<https://www.caloes.ca.gov/PADocs>)

