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FEMA’s New Post-Disaster Program for Code Enforcement and Administration

FEMA recently announced [guidance](#) to implement a new program, “Building Code and Floodplain Management Administration and Enforcement,” that Congress established in 2018 through the Disaster Recovery and Reform Act. The program is implemented under FEMA’s public assistance (PA) program and is intended to “provide communities with the resources needed to effectively administer and enforce state and locally adopted building codes and floodplain management ordinances.” The program’s overarching goals are to “increase the overall speed of recovery,” and “enhance compliance with state and local building codes and floodplain management ordinances.”

This code enforcement assistance is triggered within areas subject to a major disaster declaration. Reimbursement is only available eligible activities undertaken within 180 days after the date of the major disaster declaration. FEMA will not fund activities under this program if a community has been suspended from the National Flood Insurance Program (NFIP) or has otherwise been sanctioned for not participating in the NFIP.

FEMA’s [guidance](#) includes a descriptive list of eligible work, which is not intended to be exhaustive. Generally speaking, the Agency will view work as eligible if it is consistent with work normally performed by a community to administer and enforce adopted codes. Eligible work must relate to the repair, replacement, or retrofit of disaster damaged structures, including public, private, residential structures. Summaries of eligible and ineligible work activities are included below. Please refer to FEMA’s [guidance](#) for additional detail.

Eligible Work

- Building Code Administration, which includes the review and processing of permits and related documents applicable to disaster related construction activities; hiring, training, certifying, and supervising staff; training and outreach to the public on building code and permit requirements for construction activities relevant to disaster damaged buildings; establishing construction plan review and inspection processes; and costs incurred in contracting for services in furtherance of these activities.
- Code Enforcement, which includes inspections, investigations regarding violations, conducting and processing condemnation determinations, and reviewing and issuing elevation certifications.
- Floodplain Management Ordinance Administration and Enforcement, which includes the review and processing of permits and related documents applicable to disaster related construction activities; hiring, training, certifying, and supervising staff; training and outreach to the public on floodplain permit requirements for construction activities relevant to disaster damaged buildings; processing temporary occupancy permits; and inspections.

- Substantial Damage Determinations, including conducting field surveys; preparing cost information; performing inspections; and hiring, training, certifying, and supervising staff.

Ineligible Work

- Activities associated with non-disaster damaged structures or non-disaster-related development.
- Activities to update a community's laws, rules, procedures, or requirements, including adopting new or updating current building codes, floodplain management ordinances, zoning laws, or land use plans.

These limitations exist because of FEMA's determination to implement this policy through Stafford Act section 406, which is limited to the repair, replacement, or retrofit of disaster damaged structures.

Eligible Costs

Eligible costs include overtime for budgeted employees, straight and overtime for extra hires, mutual aid resources for post-disaster building safety evaluations such as the [ICC/NCSEA Disaster Response Alliance](#), and the purchase of supplies and equipment necessary to complete eligible work. Straight time for budgeted employees is not an eligible cost.

The Code Council's in-person and virtual [training](#) and [certification](#) offerings on the I-Codes, including the International Residential Code and International Building Code, are reimbursable expenses where departments require training or certification services on those codes for existing staff or extra hires to handle the increased permitting load post-disaster. Post-disaster damage assessment training programs like the Code Council's [When Disaster Strikes Institute](#), are also reimbursable expenses.

The Code Council's [plan review services](#) are reimbursable for jurisdictions requiring additional assistance processing higher volumes of post-disaster permits.

Purchasing additional code books or [Digital Codes Premium](#) licenses are reimbursable expenses where necessary to provide staff and additional hires with needed code references.

Purchase of additional software, including [electronic permitting software](#), [electronic records and process management software](#), or [Remote Virtual Inspection software](#) may be eligible for reimbursement on a case by case basis. Software would need to be implemented on a timeline that ensures it provides a benefit to the community's recovery within the 180-day post disaster period.

FEMA will fund not less than 75% of eligible costs. The Department of Housing and Urban Development's Community Development Block Grant Disaster Recovery (CDBG-DR) program may be used for the non-federal share if certain requirements are met.¹

¹ FEMA and HUD's jointly [issued guidance](#) in October 2020 describes requirements that apply when CDBG-DR funds are used to satisfy the local match for FEMA PA grants. The guidance also outlines flexible match options for program-specific objectives and provides example scenarios of cost breakdowns. Additional coordination may be necessary as CDBG and PA funds are likely awarded through different state/local agencies or departments.

Applying for Reimbursement

Communities must submit their applications for reimbursement and all supporting documentation through the [Public Assistance Grants Portal](#).

Needed Documentation

Communities should be prepared to supply supporting documentation to demonstrate completed work, costs incurred, and the location of work, and to validate emergency management assistance compact (EMAC) resource requests or intrastate/interlocal mutual aid requests. If work was performed by contract labor, the applicant is required to submit to FEMA documentation demonstrating federal procurement rules were followed.²

FEMA may also require that applicants provide documentation demonstrating that the eligible activities are in support of the community's legally adopted building code or floodplain management ordinance. This may include floodplain management ordinance administration and enforcement documentation; disaster-related development inspections; and substantial damage inspections, determinations, letters, and appeals.

² FEMA's [guidance on contracting with federal funds](#) includes resources and training webinars on following federal procurement rules.