FEMA

Fact Sheet

PUBLIC ASSISTANCE: PRIVATE NONPROFIT HOUSES OF WORSHIP

The Federal Emergency Management Agency (FEMA) Public Assistance (PA) Program provides supplemental assistance to States, Tribes, and local governmental entities, as well as certain private nonprofit (PNP) organizations (hereinafter referred to as applicants). FEMA's *Public Assistance Program and Policy Guide* (http://www.fema.gov/public-assistance-policy-and-guidance) provides comprehensive information regarding assistance that FEMA can provide and the requirements that applicants must follow in order to receive the assistance. The purpose of this Fact Sheet is to provide key information about the eligibility of PNP house of worship (HOW) applicants.

Background

FEMA announced on January 2, 2018, that PNP HOWs are eligible for disaster assistance without regard to their secular or religious nature. These changes are effective for disasters declared on or after August 23, 2017, and for applications for assistance that were pending with FEMA as of August 23, 2017, including applications on first- or second-level appeal, that FEMA has not resolved. Additionally, on February 9, 2018, Congress passed and the President signed the Bipartisan Budget Act of 2018 (P.L. 115-123). The Bipartisan Budget Act includes a provision amending the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act) in a manner that largely codifies the changes related to HOWs that FEMA announced in January 2018.

Under the Stafford Act, FEMA provides financial assistance, through its Public Assistance Program, to certain PNP organizations for the repair or replacement of facilities damaged or destroyed by a major disaster. The recent statutory and policy changes now make HOWs owned or operated by PNP organizations eligible applicants for this financial assistance (1) if their facilities suffered damage from an emergency or a major disaster declared on or after August 23, 2017, or (2) if they had applications pending with FEMA for damage suffered in an emergency or major disaster declared prior to August 23, 2017, that as of January 1, 2018, have not been resolved.

As with other non-critical PNPs under the Stafford Act, FEMA financial assistance for the repair or replacement of a PNP HOW facility is limited to costs that a loan from the U.S. Small Business Administration (SBA) will not cover. PNP HOWs must apply to the SBA for a loan, as required by the Stafford Act. FEMA may provide financial assistance if the PNP HOW is denied a loan or if the loan authorized is insufficient to cover repair costs.

This change is reflected in version 3.1 of the *Public Assistance Program and Policy Guide* (FP 104-009-2, April 2018), which is available online at www.fema.gov/media-library/assets/documents/111781.

Frequently Asked Questions

What type of assistance can HOWs apply for now that they couldn't previously receive?
Prior to this change, PNP religious organizations that owned or operated an eligible facility, such as a community center or school, could apply to FEMA for assistance to repair, restore, or replace the

disaster-damaged facility (Permanent Work); this remains the same. The Bipartisan Budget Act changed the term "essential governmental services" to "essential social services" and added HOWs as eligible PNP facilities. In accordance with the Bipartisan Budget Act, this policy change makes PNP HOWs eligible for Public Assistance as facilities that provide a non-critical, social-type service to the general public. With these changes, HOWs are now treated like any other eligible, non-critical PNP facility.

The Bipartisan Budget Act also directs that HOWs cannot be deemed ineligible because leadership or membership in the organization operating the house of worship is limited to persons who share a religious faith or practice.

Does this policy change affect the eligibility of PNP educational facilities?
The Bipartisan Budget Act also included a provision that prohibits for all eligible PNP facilities, including educational facilities, the exclusion of buildings and items used primarily for religious purposes or instruction, and makes clear that such facilities are eligible regardless of their religious character or use for religious instruction.

What does it mean for an application to have been "pending" as of August 23, 2017?
For the purposes of this legislative change, FEMA will consider a pending application to be:

- Any RPA or PW for a HOW or mixed use HOW facility for which there was not a FEMA determination denying the HOW facility or HOW portion of the facility; or
- A FEMA denial for which,
  - the applicant and Recipient timely submitted first and/or second appeals, and
  - the appeal was pending with FEMA.

PNP applicants with applications pending or approved for other types of facilities on August 23, 2017 cannot subsequently add HOW facilities or buildings that were not already included in a PW.

For example:
Scenario: A PNP owns a mixed use building that includes both educational and HOW components that was damaged in a disaster declared prior to August 23, 2017. As of August 23, 2017, FEMA was in the process of writing a PW that would have funded the educational portions of the building only. However, the PW had not yet been obligated, nor had FEMA issued a determination memo denying the HOW portions of the building. The PNP also owned a separate HOW which was also damaged, but it was not included in a PW.

Analysis: The HOW portions of the mixed use building are eligible. The PW for the mixed use building, which included HOW components, was pending as of August 23, 2017 and FEMA had not taken an action to deny the HOW portions of the building. The separate HOW building is not eligible, because there was no application for it pending.

If a faith-based PNP owns and operates a facility that includes both space for religious purposes and space for other purposes, how does this change affect the type and amount of assistance?
FEMA will apply its policy on mixed-use PNP facilities as described in Chapter 2, Section III.B.1 Mixed-Use Facility of the *Public Assistance Program and Policy Guide* and eligibility will be determined based

on the primary use of the facility. If over 50 percent of the facility is used for an ineligible PNP service, such as recreation, then the facility will not be eligible.

A facility also may be mixed use of critical and non-critical services for the purpose of the requirement to apply for an SBA loan. If the PNP is providing several functions out of a single building and one of those functions is critical, for example elementary education, the PNP could apply directly to FEMA. Where the PNP facility consists of several buildings, FEMA would evaluate the facility on a building by building basis, which may result in a situation where the applicant can apply directly to FEMA for damage to their school building, but they have to apply to SBA first for the HOW.

Will FEMA provide funding to replace contents in PNP HOWs, including one-of-a-kind or irreplaceable objects and collections?
Damaged contents necessary to the operation of PNP HOW facilities are eligible to the same extent as the contents of other eligible PNP facilities' contents, without regard to the religious nature of the contents. This includes replacement of destroyed contents with items similar in age, condition, and capacity. However, replacement of rare books, collections, and objects is generally ineligible under the Public Assistance Program. Costs associated with stabilization of such items is eligible. For more information, see the *Public Assistance Program and Policy Guide* Chapter 2, Section VII.H.3.f Irreplaceable Collections and Individual Objects and Appendix K: Work Eligibility Considerations by Type of Facility.

What is the process for a PNP that owns or operates a HOW to apply for assistance?
HOWs are subject to the generally-applicable PNP rules and processes. Under the Stafford Act, HOWs provide non-critical services. Therefore, PNPs seeking Permanent Work for a HOW must also first apply for a disaster loan from SBA. If the HOW's loan application is declined or the SBA loan will not fully cover the damages FEMA will provide funding for eligible Permanent Work. For eligible Emergency Work associated with a HOW, the PNP may apply directly to FEMA for assistance without applying for an SBA loan.

To apply for assistance from FEMA, applicants must submit a Request for Public Assistance (RPA, FEMA Form 90-49) to FEMA through the Recipient (the State, Territorial, or Tribal government). For more information on submitting an RPA, applicants should contact their State (or applicable) emergency management agency and see the *Public Assistance Program and Policy Guide*.

Given this change is retroactive to August 23, 2017, will HOWs still have to apply to SBA for disaster loan financing?
Yes. SBA will accept disaster loan applications past the filing deadline from PNP houses of worship/churches for disasters declared from August 23, 2017, through January 1, 2018. Applications from PNP HOWs that incurred damages after January 1, 2018, will be accepted within the original deadlines designated for the declared disaster.

For online applications to SBA, applicants should visit the SBA website at https://disasterloan.sba.gov/ela/. For additional assistance with the application process, applicants should contact the SBA Disaster Customer Service Center at (800) 659-2955.

If the timeframe to apply for an SBA loan has expired, will SBA still consider a loan application from a HOW?
SBA will accept disaster loan applications past the filing deadline for PNP HOWs for disasters declared from August 23, 2017, through January 1, 2018. Applications from PNP HOWs that incurred damages after January 1, 2018, will be accepted within the original deadlines designated for the declared disaster.

For online applications to SBA, applicants should visit the SBA website at https://disasterloan.sba.gov/ela/. For additional assistance with the application process, applicants should contact the SBA Disaster Customer Service Center at (800) 659-2955.

Is there an established timeframe for HOWs to submit their applications to FEMA?
Generally, the deadline to submit an RPA to FEMA is within 30 days of the respective area being designated in the declaration for the event. These changes are effective for disasters declared on or after August 23, 2017, and for applications for assistance that were pending with FEMA as of August 23, 2017, including applications on first- or second-level appeal, that as of January 1, 2018, have not yet been finally resolved by FEMA. Potential PNP HOW applicants who have **not yet submitted an RPA** should contact their State (or applicable) emergency management agency for information on the RPA submission deadline. For disasters declared on or after August 23, 2017, with RPA submission deadlines that closed prior to this policy change, the State may request that FEMA re-open the RPA period for a reasonable time to allow affected PNP HOWs to apply.

Public Assistance applications and first and second appeals involving HOWs that were **previously on hold** are being processed again as of January 2, 2018.

For major disasters declared after January 1, 2018, for applicants for Public Assistance, including HOWs, the deadline for submission of RPAs is typically 30 days from the date of declaration or designation of an area for assistance, subject to any extensions requested by a State (or other Recipient) and approved by FEMA.

How will PNP HOWs be notified of this change and the opportunity to apply for assistance?
On January 2, 2018, FEMA issued a press release clarifying this policy change and also provided notifications to Intergovernmental, Congressional, and Private Sector stakeholders. Joint Field Offices will complete stakeholder notifications and update all Public Assistance messaging to reflect eligibility for HOWs. FEMA is also pursuing outreach opportunities with multiple national faith-based organizations and members of the Volunteer Organizations Active in Disasters.

If a HOW provided support to disaster survivors such as food, clothing and shelter, can the HOW receive reimbursement for those costs?
For PNPs, eligible emergency protective measures are generally limited to activities associated with preventing damage to an eligible facility and its contents. Emergency services to save lives, preserve property and public health and safety are usually the responsibility of State, Territorial, Tribal, or local governments. Therefore, PNPs are generally not legally responsible for those services and FEMA does not provide PA funding to PNPs for the costs associated with providing those services. When a PNP provides emergency services at the request of, and certified by, the legally responsible government entity, FEMA provides Public Assistance funding through that government entity as the eligible applicant.

What Federal requirements do HOWs have to comply with in order to receive FEMA grant funding?

PNP HOW applicants need to meet the general Public Assistance eligibility requirements as well as the generally-applicable PNP requirements. As non-critical PNPs, HOWs must also satisfy the requirement to apply for assistance from SBA for Permanent Work. HOW applicants must also comply with the Federal grant award requirements of 2 CFR Part 200.