



## PUBLIC ASSISTANCE: PRIVATE PROPERTY DEBRIS REMOVAL

The Federal Emergency Management Agency (FEMA) Public Assistance (PA) Program provides supplemental assistance to States, Territories, Tribes and Local governments, as well as certain private nonprofit organizations, (herein referred to as Applicants). FEMA's Public Assistance Program and Policy Guide (<https://www.fema.gov/media-library/assets/documents/111781>) provides comprehensive information regarding FEMA assistance and the requirements that Applicants must meet in order to receive assistance. The purpose of this Fact Sheet is to provide key information to consider when planning for debris removal.

Private property debris removal (PPDR) is generally not eligible for reimbursement under the PA Program. However, when debris on private property is so widespread that it threatens public health and safety or economic recovery of a community, FEMA may provide PA funding for debris removal from private property. The debris removal must be in the public interest, not merely benefiting an individual or limited group of individuals within the community, and be within the legal authority of the Applicant to perform. In such cases, FEMA works with the State, Territorial, Tribal, or Local government to designate specific areas where debris removal from private property, including private waterways, is eligible.

### Approval for PPDR

Due to the magnitude of recent disaster events, FEMA is simplifying the process for PPDR approval. Applicants must provide a written notice through the Recipient (State, Tribal, or Territorial government) to FEMA identifying areas where PPDR activities will occur (including identification of gated or ungated communities, orphaned roads, or commercial properties). Once the notice is submitted, the Applicant does not need to wait for FEMA approval to start work. However, the Applicant must submit its written request for FEMA approval so that it may receive reimbursement for PPDR work. FEMA may only approve reimbursement based on the Applicant's satisfactory demonstration (including relevant documentation) that the:

- PPDR was in the public interest,
- Applicant has legal authority to perform debris removal activities on private property,
- Applicant agrees to indemnify the Federal Government (including FEMA),
- Applicant obtained and complied with applicable permits or approvals for the locations of temporary debris staging and reduction sites and final debris disposal sites, and
- Applicant has satisfied all legal processes and obtained permission from the property owners (rights-of-entry or other unconditional authorization) and agreements to indemnify and hold harmless the Federal government.

### Debris Removal from Commercial Property

Removal of debris from commercial properties, such as industrial parks, golf courses, cemeteries, apartments, condominiums, and trailer parks, is generally ineligible because commercial enterprises are expected to retain insurance that covers debris removal. In very limited, extraordinary circumstances, FEMA may provide an exception.

## Duplication of Benefits

The Applicant should work with private property owners to pursue and recover insurance proceeds and credit FEMA the Federal share of any insurance proceeds received. In some circumstances, FEMA may provide assistance to individuals through the Individual Assistance (IA) Program for debris removal. In these cases, FEMA PA will coordinate closely with IA to ensure FEMA does not fund the same work under both programs.

## Environmental Considerations for Debris Removal

FEMA must ensure that the Applicant's debris removal operations avoid impacts to floodplains, wetlands, federally listed threatened and endangered species and their critical habitats, and historic properties (including maritime or underwater archaeological resources if waterways are impacted). The Applicant must stage debris at a safe distance from property boundaries, surface water, wetlands, structures, wells, and septic tanks with leach fields. For more information on EHP compliance associated with debris removal please refer to the *Environmental and Historic Preservation (EHP) Fact Sheet: Debris Removal Activities* as well as the Public Assistance Program and Policy Guide dated April 2017.

### **PPDR WRITTEN REQUEST: ELEMENTS**

#### **Public Interest Determination**

- Provide the basis for its determination that removing the debris from the private property requested is in the public interest. The determination must be made by the State, Territorial, Tribal, county, or municipal government's public health authority or other public entity that has legal authority to make a determination that disaster-generated debris on private property in the designated area constitutes an immediate threat to life, public health, or safety, or to the economic recovery of the community at-large. FEMA will evaluate the applicant's submission to determine if it concurs that PPDR is in the public interest.
- Submit the established, specific legal requirements for declaring the existence of a threat to public health and safety.

**Legal Authority and Responsibility:** Provide documentation to confirm the Applicant's legal authority and responsibility to enter private property and remove disaster-related debris. This includes:

- Citation of the law, ordinance, code, contractual arrangement, or emergency powers under which it is exercising its legal authority to remove debris from private property. The authority cited must be applicable to the condition representing the immediate threat and not merely the Applicant's uniform level of services. Typically, solid waste disposal ordinances are part of the Applicant's uniform level of services and not a justification for entering private property to remove disaster-related debris.
- Confirmation that a legally authorized official of the Applicant has ordered the exercise of public emergency powers or other appropriate authority to enter onto private property in the designated area to remove debris to address immediate threats to life, public health, and safety.

**Indemnification:** The Applicant must indemnify the Federal Government and its employees, agents, and contractors from any claims arising from the removal of debris from private property.