

FEMA PUBLIC ASSISTANCE PROGRAM GUIDANCE

PNP Organizations

PNP organizations or institutions that own or operate facilities that provide certain services otherwise performed by a government agency are eligible for assistance. These organizations, their facilities and services must meet additional eligibility criteria beyond that which apply to governmental type applicants. (See FEMA Policy 9521.3, Private Nonprofit Facility (PNP) Eligibility)

Qualifying PNPs include those that provide education, medical, custodial care, emergency, utility, and other essential governmental services, including museums, zoos, community centers, libraries, homeless shelters, senior citizen centers, shelter workshops, and health and safety services such as low-income housing, alcohol and drug treatment centers, residences and other facilities offering programs for battered spouses, facilities offering food programs for the needy, and daycare centers for children or those individuals with special needs (such as those with Alzheimer's disease, autism, and muscular dystrophy). Eligible PNPs are identified in the regulations §206.221(e), summarized on the table on page 10 of this guide.

In order to be eligible for public assistance, PNP organizations are required by law and regulation to provide certain types of services and to follow special procedures. PNP organizations must have an effective ruling letter from the U.S. Internal Revenue Service granting tax exemption or certification from the State that the organization is a non-revenue producing, nonprofit entity organized or doing business under State law. Further, the specific facility for which the PNP organization is requesting funding must be used primarily for an eligible purpose consistent with the services identified above.

Open to the General Public

Certain types of PNPs are not required to be open to the public. These include PNPs that provide educational, utility, emergency, medical, or custodial care services, as further described in 44 CFR 206(e). For instance, a school run by a religious-oriented PNP that restricts enrollment to students of a particular religious faith will be eligible for assistance if the school is *primarily used* for secular educational purposes. All other types of PNPs are required to be open to the public. These include eligible irrigation facilities as well as those providing certain essential governmental services to the general public as defined in 44 CFR 206.221(e)(7).

To be eligible for assistance, the primary purpose of a PNP must be to provide a public service that is not restricted by a specific definition or by prohibitive fees. If access to the use of PNP services is restricted, the PNP is not eligible.

Examples of ineligible PNPs are those restricted to:

- a certain number of members smaller than the legal occupancy of the facility;
- members that have a financial interest in the facility, such as a condominium association; or
- a geographical area smaller than the community it could expect to draw users.

Membership requirements or restrictions on services that do not disqualify PNPs for public assistance include:

- fees that cover only administrative processing costs;
- fees that can be waived upon demonstration of need; or
- restriction to a group of users where at least one parameter is open ended, such as all youth under age 16.

Application Requirements for PNPs

Emergency Work. All PNPs that are eligible for FEMA assistance, as described above and in 44 CFR 206.221(e), may apply directly to FEMA for emergency assistance under 44 CFR 206.225.

Permanent Work. Eligible PNPs seeking reimbursement for permanent repairs and restoration from FEMA may apply for disaster assistance according to the following requirements, depending on whether they are deemed “critical” or “non-critical” PNPs by the Stafford Act:

- **Critical PNPs** are defined in the Stafford Act as those providing power, water, sewer and wastewater, communications, emergency medical, fire protection and emergency services. Critical PNPs may apply directly to FEMA for permanent repair and restoration assistance. All other PNPs are considered “non-critical” and must follow the application process described below.
- **Non-Critical PNPs** are those eligible organizations that do not qualify as critical service facilities. Non-critical PNPs must first apply to the Small Business Administration (SBA) for a low-interest loan for repair of disaster damages.

Private Nonprofit Facilities		
Eligible Facilities		Ineligible Facilities
Critical Services	Non-Critical Services	
<ul style="list-style-type: none"> • Power facilities for generation, transmission and distribution of electric power • Water facilities for treatment, transmission and distribution by a water company supplying municipal water. Water provided by an irrigation company for potable, fire protection or electricity generation purposes. • Sewer and wastewater facilities for collection, transmission and treatment • Communications facilities for transmission, switching and distribution of telecommunications traffic • Emergency Medical Care facilities that provide direct patient care to including hospitals, clinics, outpatient services, nursing homes • Fire Protection/ Emergency services; fire and rescue companies including buildings and vehicles essential to providing emergency services, and ambulance companies 	<ul style="list-style-type: none"> • Alcohol and drug treatment facilities • Animal control facilities directly related to public health and safety • Community Centers • Custodial Care • Daycare centers for children or those individuals with special needs (e.g. those with Alzheimer's disease, autism, muscular dystrophy, etc.) • Educational • Food programs for the needy • Homeless shelters • Libraries • Low-income housing (as defined by Federal, State, or local law or regulation) • Museums • Residences and facilities offering services for battered spouses • Senior Citizen Centers • Shelter Workshops • Zoos 	<ul style="list-style-type: none"> • Advocacy or lobbying groups not directly providing health services • Cemeteries • Conference facilities • Daycare centers for those other than included as eligible • Job counseling and training centers • Irrigation facilities used solely for agricultural purposes • Job counseling and training centers • Parking garages • Performing arts facilities • Political education facilities • Property owners associations' facilities such as roads and recreational facilities, except those facilities that could be classified as utilities or emergency facilities • Public housing, other than low income • Recreation facilities • Facilities for religious services or religious education

The SBA loan application process for "non-critical" PNP facilities will generate one of three outcomes:

1. If the PNP is declined for an SBA loan, then the PNP may apply to FEMA for public assistance.
2. If the SBA loan fully covers eligible damages from the disaster event, then no assistance from FEMA is available.
3. If the maximum loan for which the facility is eligible does not fully cover eligible damages, then the PNP may apply to FEMA.

As noted on page 10 of this guide, both Critical and Non-Critical PNPs should apply to FEMA for **emergency assistance** (debris clearance and emergency protective measures). The requirement to apply for an SBA loan only applies to Non-Critical PNPs seeking assistance for permanent repair or restoration of damaged facilities.

PNPs that provide Non-Critical Services (see table on page 10 of this guide) are responsible for taking **both** of the following actions as soon as possible after a disaster has damaged their facilities:

1. **Apply for FEMA assistance.** It is important that a PNP apply to FEMA immediately after a disaster so that FEMA can inspect the disaster damages and prepare a PW. The PW will be held by FEMA until a loan decision is made by the SBA.
2. **Apply for a disaster loan from the SBA.** If an SBA loan is declined or does not fully cover the eligible damages, the PNP may be eligible for FEMA assistance. In such cases, FEMA may not be able to fairly estimate the damages unless the PNP had applied to FEMA shortly after the disaster occurred (see 1 above).

When a PNP receives a loan determination from the SBA and the loan has been declined or will not fully cover the damages, the PNP should immediately notify FEMA in order to reactivate its request for public assistance. The SBA typically provides FEMA a copy of the loan determination, but the PNP must notify FEMA of its intention to seek disaster assistance.

Figure 1 on the following page depicts the application process for PNP applicants.

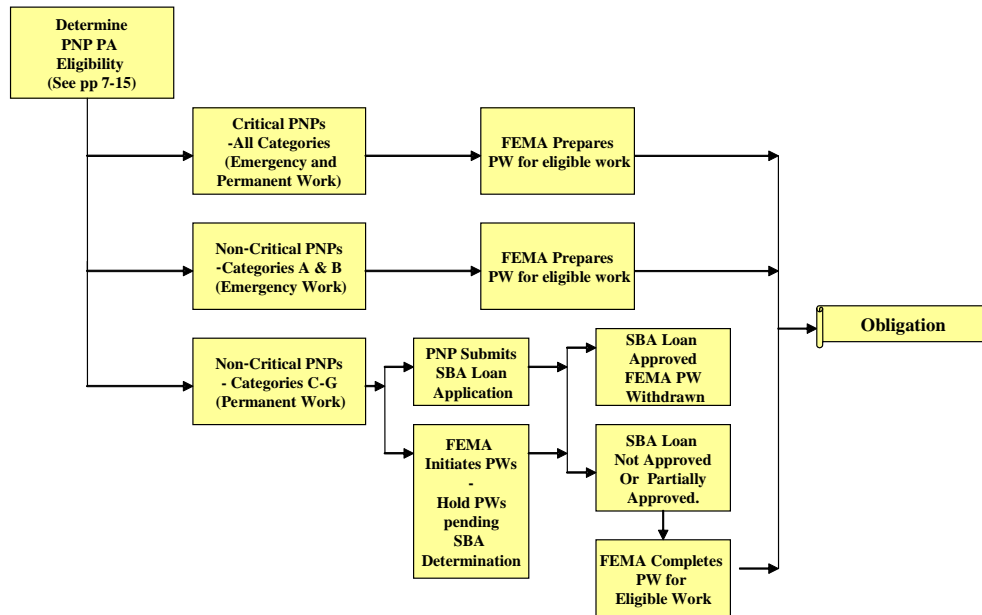


Figure 1 – Private Nonprofit Application Process

PNP Eligible Services

PNP Education. Educational institutions are defined in terms of primary, secondary, and higher education schools. For primary and secondary schools, an educational institution is a day or residential school that provides primary and secondary education as determined under State law. This generally means that the school satisfies State requirements for compulsory attendance. For higher education facilities, an educational institution is defined as an institution in any State that:

- admits as students persons having a high school diploma or equivalent;
- is legally authorized to provide education beyond the secondary level;
- awards a bachelor's degree or a two-year degree that is acceptable as full credit towards a bachelor's degree; and
- is accredited by a nationally recognized agency or association. The PAO should consult with FEMA's Office of General Council (OGC) for institutions that are not accredited.

A higher educational institution is also defined as any school that provides not less than a one-year training program to prepare students for gainful employment in a recognized occupation and that meets the provisions of the criteria set forth in the first, second, and fourth bullets above.

Organizations that offer classes that qualify for credit at an accredited institution but do not meet the above defining requirements are not eligible applicants.

Eligible facilities include buildings housing classrooms plus related supplies, equipment, machinery, and utilities of an educational institution necessary or appropriate for instructional, administrative, and support services. It does not include buildings, structures, or related items used primarily for religious purposes or instruction.

PNP Medical. A medical facility is any hospital, outpatient facility, rehabilitation facility, or facility for long-term care, as defined below. A medical facility is also any facility similar to those listed below that offers diagnosis or treatment of mental or physical injury or disease. Eligible components include the administrative and support facilities essential to the operation of the medical facility, even if not contiguous.

Hospitals include general, tuberculosis, and other types of hospitals and related facilities, such as laboratories, outpatient departments, nursing home facilities, extended care facilities, facilities related to programs for home health services, self-care units, and central service facilities operated in connection with hospitals. This category also includes education or training facilities for health profession personnel operated as an integral part of a hospital. A medical organization that primarily furnishes home-based care is not considered a hospital under this definition.

Outpatient facilities are defined as facilities located in or apart from a hospital for the diagnosis or treatment of patients who are not actually admitted to a hospital. Such a facility may be one operated in connection with a hospital, or one in which patient care is under the professional supervision of a doctor licensed in the State.

Rehabilitation facilities are defined as facilities that are operated for the purpose of assisting the rehabilitation of disabled persons through a program of medical evaluation and services; and psychological, social, or vocational evaluation and services that are under competent professional supervision. The major portion of these services should be furnished in the facility.

Facilities for long-term care are defined as facilities providing inpatient care for convalescent or chronic disease patients who require skilled nursing care and related medical services. Such facilities may be in a hospital, operated in connection with a hospital, or be in a location where services performed are under the supervision of a licensed doctor.

Medical office buildings that are owned by PNP organizations but contain offices leased to for-profit practices of doctors and other services are subject to special eligibility criteria. If the for-profit practices lease more than 50 percent of the building, the building is not eligible for public assistance. However, if at least 50 percent of the building is used for medical service activities associated with the PNP organization, FEMA will consider damages to the entire facility, not just to the portion occupied by the eligible service. However, such assistance would be pro-rated based on the percentage of space occupied by the PNP organization. Contents within the ineligible space (that are occupied by the for-profit services) would not be eligible for any assistance. See PNP Mixed-Use Facilities on page 15 of this guide for further discussion and examples.

PNP Custodial Care. Custodial care facilities are those buildings, structures, or systems, including those essential administration and support buildings, that are used to provide institutional care for persons who do not require day-to-day care by doctors or by other professionals, but do require close supervision and some physical constraints on their daily activities.

PNP Emergency. Emergency facilities include fire departments, search and rescue teams, and ambulances. Damages to and protective measures for buildings, vehicles, and other equipment used directly in performing emergency services are eligible.

PNP Utility. A utility includes facilities necessary for the generation, transmission, distribution, and maintenance of electric, power, telephone, sewer and water, and gas services.

PNP Other. Essential governmental services not falling in one of the categories described above are:

- museums;
- zoos;
- community centers;
- libraries;
- homeless shelters;
- senior citizen centers;
- shelter workshops; and
- health and safety services.

Facilities that provide health and safety services of a governmental nature include:

- low-income housing;
- alcohol and drug treatment centers;
- residences and other facilities offering programs for battered spouses;
- facility offering food programs for the needy; and
- daycare centers for children or those individuals with special needs (such as those with Alzheimer's disease, autism, and muscular dystrophy).

For additional guidance regarding PNP community center and museum eligibility, see FEMA Policy 9521.1, Community Center Eligibility and FEMA Policy 9521.2, Private Nonprofit Museum Eligibility, respectively.

PNP Mixed-Use Facilities

Community centers that are open to the general public without restrictions, established and primarily used as gathering places for a variety of social, educational enhancement, and community service activities also may be eligible. However, facilities established or primarily used for religious, political, athletic, recreational, vocational or academic training, artistic, conference, or similar activities are not eligible.

The community center must be established by the organization's charter or by-laws, and used for regularly scheduled activities, rather than simply offering space to a community organization. It may be necessary to obtain materials such as the organizational charter, articles of incorporation, activity logs, and other documents to verify use and eligibility.

A community center includes the building and associated structures and grounds. Each component must be evaluated in its entirety to determine eligibility. For example:

If a community center complex consists of three buildings, two that serve as eligible community centers and one that serves as an administrative building, only two buildings are eligible for public assistance, as the administrative building does not provide an eligible activity.

"Primarily used", as stated above, means that for facilities with mixed usages, the facility is used over 50 percent of the time for eligible activities, or over 50 percent of its space is used for eligible activities. FEMA will then consider damages to the entire facility, not just to the portion occupied by the eligible service. However, assistance would be pro-rated based on the percentage of space used for eligible purposes. Contents within the ineligible space would not be eligible for any assistance.

PNP Ineligible Services or Facilities

Examples of ineligible services or facilities are:

- recreational facilities;
- job counseling or job training;
- facilities for advocacy groups not directly providing health services;
- conference facilities;
- centers for the performing arts;
- political education;
- advocacy or lobbying;
- religious service or education;
- facilities for social events;
- roads owned and operated by a property owners association; and
- irrigation unless the facility provides water for fire suppression, drinking, or generating electricity.

Limitations for PNPs

Assistance for all PNPs is limited to repair or replacement of damaged eligible facilities and related costs, such as protective measures to prevent damage to the facility or contents. A protective measure might be to move the facility contents to temporary storage. The provision of temporary facilities and moving costs must be evaluated according to the criteria for temporary relocation outlined below. The moving costs, as well as necessary alterations at the new location, might be eligible if the continued operation of the facility was necessary to eliminate immediate threats to life or property. If the PNP were located in a rented facility, repairs to the facility would not be eligible unless the written lease placed such responsibility on the PNP. If a PNP must vacate a rental facility while repairs are made, and the PNP is not legally responsible for repairing the facility, the expenses of renting a temporary facility would not be eligible, even if those expenses exceed the pre-disaster rate.

PNP operating costs are not eligible, even if increased by the disaster event. In addition, labor, material, and equipment costs for providing assistance services, even if the services are for disaster victims or not the same as the organization's basic mission. However, if the organization is providing services under contract to a local government or State agency, the work may be eligible if it is claimed by that government or agency.

This limitation for PNPs does not apply to certain critical facilities that provide emergency protective measures or health and safety services. Examples of eligible and ineligible PNP services resulting in increased operation costs include:

Eligible Services:

- A PNP Fire Department that responds to fire calls resulting from the disaster.
- A PNP Fire Department that provides equipment and labor to pump flooded basements.

Ineligible Services:

- A PNP Senior Citizen Center that provides food service to disaster victims.
- A PNP Medical facility that incurs increased administrative and operational costs due to increased patient load and emergency medical treatment performed in the facility.

Temporary Relocation

When buildings that house essential services, such as school classrooms, police and fire department facilities, government offices, and certain PNP functions, such as critical health facilities, are damaged extensively enough that they cannot be used until repairs are made, temporary relocation of the essential services may be necessary. Temporary relocation may also be necessary in instances where such buildings are undamaged but inaccessible due to disaster-related conditions in the immediate vicinity. The criticality of the service and safety of the facility are the factors used to determine the need for temporary relocation.

The costs associated with temporary relocation are eligible but are subject to cost comparisons of alternate methods of providing facilities. Such costs include the rental or purchase of temporary space and equipment. The decision whether to rent or purchase space and equipment must be based on cost effectiveness. Maintenance and operating costs of the temporary facility are not eligible.

The length of time that rental costs are eligible will be based on the time estimated to complete repair work that will bring the damaged facility to pre-disaster design, not including time for completion of improvements. Normally, the period of time for which temporary relocation assistance may be provided is 6 months, based on the regulatory time limitation for the completion of emergency work. However, the Governor's Authorized Representative (GAR) may recommend a time extension based on information provided by the applicant

documenting extenuating circumstances beyond the control of the applicant, complete design drawings, and the revised timeline for the permanent restoration project. Time extensions may not exceed an additional 6 months (12-months total) and must be approved by FEMA. (See FEMA Policy 9523.3, Provision of Temporary Relocation Facilities)

Public Entities

Certain public entities also may be eligible applicants. Public entities are those organizations that are formed for a public purpose but are not political subdivisions of a State or a local government. To qualify for assistance, these types of applicants must receive the majority of their funding from the State or a political subdivision of the State. Application for public assistance, as with assistance for facilities that serve rural or unincorporated communities, must be made by a State or a political subdivision of the State that will be responsible for the completion of work at the facility.

Homeowners' Associations

Homeowners' Associations are generally formed for the specific purpose of managing, maintaining and governing the use of property within a specific defined area for and on behalf of the homeowners of that area. Services sometimes include emergency services such as fire and ambulance; utilities such as power, water and sewer, and sewage treatment; medical clinics; roadways within the defined community area; and/or recreational facilities (golf, tennis, pools), parks and lakes, and community centers.

A Homeowners' Association may be eligible for public assistance for some facilities if the Association meets the eligibility criteria for a PNP applicant. Eligible facilities are then limited to those eligible for a PNP applicant, and must be open to the general public. Roadways and recreational facilities are not eligible PNP facilities.

In addition to permanent restoration, eligible facilities owned by a Homeowners' Association (e.g., a sewage treatment plant) are eligible for debris removal and other protective measures. The work must be done by either the Homeowners' Association or by an eligible local or State level government entity. Removal of debris from non-eligible facilities, such as roadways within the community, is only eligible if performed by an eligible local or State level government entity.

Homeowners' Associations generally have membership dues and prohibit access by those who are not members or by citizens outside the geographic community area. Under these circumstances, the services and facilities are not considered to be open to the general public and, therefore, are not eligible for public assistance.