



# Disaster Relief for Nonprofits

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## Disaster Planning

Nonprofits should have a well-thought out and carefully documented disaster plan that prepares the group and its employees to deal with an emergency. Disaster planning can minimize program interruption and restore normal functioning as quickly as possible. Preparing for disaster can involve elements such as:

- Evacuation drills for staff
- Arrangements for continuing staff contact during a disaster
- Arranging a temporary workspace
- Creating and maintaining duplicate files and arranging for digital backup off-site
- Addressing disaster insurance and risk management issues in advance
- How the nonprofit can deliver client services in the aftermath of a disaster.

### *Writing a Disaster Plan*

A comprehensive disaster plan should address all possible contingencies, from a simple power outage to flooding and destruction of the office or workspaces. The organization should consider four basic scenarios:

1. a temporary disruption of services;
2. the office is rendered unusable for a period of time;
3. the entire building is destroyed; and/or
4. the entire region around the organization's main office is unusable.

Start assessing risk by imagining a "worst case scenario," and configure solutions accordingly, by conducting a situational and needs analysis. The analysis should evaluate areas most easily addressed along with those that require a higher level of preparedness; challenges that can be prevented or minimized; and the potential for disaster based on location, physical hazards, and other considerations.

Select a disaster "team" and direct them to draw up a specific disaster plan, including a timeline for implementation. The plan should also assign staff members that will assume specific responsibilities during a crisis. Base the plan on situational needs and cover all personnel. Include volunteers, client services and programs, technology and data preservation and retrieval, donor interaction, and crisis communication procedures.

Once developed, the disaster team should share the plan and emergency procedures with the rest of the staff to ensure that everyone is aware of their responsibilities and is ready to act. The disaster team should (1) provide training and drilling on evacuation procedures, emergency routes, and establish a common meeting place; (2) stock emergency kits with working flashlights and first aid items; (3) make sure all fire extinguishers and smoke detectors are operational, and (4) review available means to keep open channels of communication between office staff and emergency responders.

### *Communicating with Personnel*

Review personnel files to ensure that the contact information for employees and board members is current, and that emergency numbers for police, fire, and other responders are posted and visible. Have a contingency plan for client communication with updates on available services.

### *Protecting Data Files and Paper Documents*

Nonprofits should regularly back up donor information, programming details, client files or other pertinent information used on a daily basis. Use basic backup drives, network backup devices, or online backup vendors.

Remind staff that files saved to anything but a backup system could be lost forever (including files saved to a local hard drive or flash drive). Regular data storage and backup allows nonprofits to retrieve and use data remotely.

In addition to electronic files, nonprofits should consider how to save paper files such as executed contracts, insurance documents, donor information, employee files, original incorporation and exemption documents, leases, vendor contracts and other internal documents. Scanning to a backup system or making copies and keeping them off-site are easy ways to preserve irreplaceable paper documents ruined in a disaster.

### *Managing Risk*

The disaster recovery team should identify credible risks that could cause the nonprofit operational interruptions by reviewing the physical space, such as the building and grounds, office security measures, emergency lighting systems, and placement of smoke detectors and fire extinguishers. Following this risk assessment, review the organization's insurance coverage with your insurance professional to ensure that it is adequate for the potential risks.

## **Insurance**

The time to review your insurance policies is *before* a disaster hits. There are a number of insurance policies available for nonprofits to consider.

### *Commercial General Liability*

Commercial General Liability insurance is a standard insurance policy issued to organizations to protect against liability claims for bodily injury and property damage caused by premises, operations, products, and completed operations, and personal injury liability.

### *Flood Insurance*

Damage from floodwaters is excluded in most general commercial insurance policies. Ask your agent whether you should obtain separate flood insurance, which will protect the physical building and its physical contents and assets. Generally, a commercial flood insurance policy will protect floors, walls, ceilings, equipment and fixtures including furniture, inventory and business property sustain floodwater damage.

### *Loss of Income when Operations Cease*

Some insurance policies include business interruption coverage. If yours does not, consider an extra rider to cover this risk. Business interruption coverage or a loss of ingress/egress provision reimburses an organization for loss of income during a period of inoperation. This can be important to nonprofits that might be unable to meet their specific grant outcomes or deliverables following closure or cessation of operations due to disaster.

### *Exclusions*

Most general commercial liability and commercial flood insurance policies have exclusions or limitations for water damage to the interior of a building, unless a windstorm damages the roof or exterior walls of a building where the water enters. This is known as a wind-driven rain exclusion. The most common cause of wind-driven rain damage occurs when water enters through window or door seals without causing damage to the window or door. Insurers generally regard water seepage as a maintenance issue that does not give rise to a claim under a general commercial liability or commercial flood insurance policy.

### *Best Practices*

A disaster team should be familiar with the insurance policy declarations to check coverage term, limitations on coverage, exclusions, caps on liabilities, and deductibles regularly. Since most policies require notice of the loss to the agent or provider in writing as soon as possible, the disaster team should designate a person to make sure

notice is immediately provided. For useful information about disaster coverage and related, visit the [Texas Department of Insurance](#).

## Losses Not Covered By Insurance

### SBA Loans

The Small Business Association (SBA) offers loans to small businesses, which include nonprofits, for damages caused by presidentially declared disasters. SBA offers two types of loans: business physical and economic injury disaster loans. Business physical disaster loans cover the cost of replacing property or restoring property to its pre-disaster condition. Economic injury disaster loans are awarded to help organizations meet their ordinary operating expenses.

Nonprofits can receive up to \$2,000,000 total for either business physical disaster assistance, economic injury disaster assistance, or both. If a nonprofit is unable to obtain credit from other sources, the interest rate on both types of loans will not exceed 4%. The SBA is flexible with its payment plans and offers up to a 30-year loan repayment period. Repayment terms are determined on a case-by-case basis, based upon the borrower's ability to repay.

#### *Business Physical Disaster Loans*

Eligible nonprofits may borrow up to \$2 million for the repair or replacement of the business' physical disaster losses including real estate, machinery and equipment, inventory, furniture and fixtures, and leasehold improvements. The \$2 million is a statutory limit that applies to the combination of both physical and economic injury loans.

#### *Economic Injury Disaster Loans*

Most eligible nonprofit organizations may borrow up to \$2 million for working capital to meet necessary financial obligations and expenses to which it was committed if the disaster had not occurred. Economic injury disaster loans do not replace an organization's lost sales or revenue.

#### *Process*

Applying for a disaster loan is a simple three-step process that can take up to 30 days to complete.

Step 1: Apply for the loan either (1) online at <https://disasterloan.sba.gov/ela>; (2) in-person at a disaster center; or (3) by mail.

Step 2: SBA reviews your credit before conducting an inspection to verify losses. Once an inspection is granted, an SBA verifier will estimate the total physical loss to the disaster damaged property. After the inspection, a loan officer will review the inspection report, determine the organization's eligibility, and reach a decision on the application within 4 weeks of the inspection being completed.

Step 3: Following loan approval, SBA will prepare and send Loan Closing Documents to the organization for signature. When SBA receives the signed closing documents, SBA will make an initial disbursement of \$25,000 for physical damage and/or \$25,000 for economic injury within five (5) days. A case manager will be assigned to the organization to help it meet the loan conditions and to schedule subsequent disbursements. The loan awarded may be adjusted after closing for unforeseen circumstances like increasing the loan for unexpected repair costs or reducing the loan due to additional insurance proceeds awarded.

#### *Timeframe*

Each declared disaster carries a different filing deadline, determined by SBA on a case-by-case basis. Generally, nonprofits have 90 days from the date of the SBA disaster declaration to apply for an SBA loan. SBA provides a

15-day grace period after the 90-day deadline for applications sent by mail, and 45 days for applications submitted online. Loan determinations can take anywhere from 30 to 90 days after the date the application was submitted.

### *Appeal*

Appeals to SBA are evaluated on a case-by-case basis. The timeframe for an appeal as determined by the loan officer can range from 30 days to 6 months. Upon denial of a request for a loan, the nonprofit may have up to 6 months to submit a request for reconsideration. If denied again, it has 60 days from the date on the denial letter to appeal. Appeals are exhausted after the second denial unless the nonprofit can show new circumstances warranting reconsideration.

### *Award*

SBA may take up to 90 days to award a decision on a disaster loan application. Once granted, the nonprofit will receive scheduled disbursements until the entire award amount has been received.

## **Public Assistance Grants**

### FEMA's Public Assistance Program

FEMA's Public Assistance Grant Program provides federal assistance to government organizations and certain qualifying private nonprofit (PNP) organizations following a Presidential disaster declaration. The Program can provide federal supplemental disaster grant assistance for debris removal and emergency protective measures. These grants can also be used to repair, replace or restore disaster-damaged, publicly-owned facilities and the facilities of certain PNP organizations.

### *Eligible Nonprofits*

Public Assistance Grants are available for two types of nonprofits: critical service providers, and essential service providers that are open to the public.

- Critical service providers include educational, utility, emergency, or medical services.
- Essential service providers include museums, zoos, performing arts facilities, some community centers including Houses of Worship, libraries, homeless shelters, senior citizen centers, and health and safety services of a governmental nature such as low-income housing, rehabilitation facilities, and childcare centers.

### *Use of Funds*

All repairs must be within the disaster zone, and any damage repaired must have been caused by the disaster. Eligible work is classified into the following categories:

- "Emergency Work", such as debris removal and
- "Permanent Work" such as replacement or repair of buildings and facilities. Permanent work can include work to mitigate or prevent future disaster damage.

The performance period for Emergency Work Public Assistance Grants is normally 180 days after the presidential declaration. The performance period for Permanent Work Public Assistance Grants is normally 18 months after the presidential declaration. The performance period for both types grants can be extended upon request for extension to the state (grantee) by the local jurisdiction or agency (sub-grantee). In Texas, the sub-grantee is the [Texas Department of Public Safety Division of Emergency Management](#).

### *Private Nonprofit Houses of Worship*

Historically, PNP religious organizations 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). Eligibility changes now allow PNP Houses of Worship (HOWs) access to disaster assistance as

community centers as an “essential service provider”, without regard to their secular or religious nature. This allows HOWs to be treated as any other eligible PNP community facility open to the public.

FEMA financial assistance for the repair or replacement of a PNP HOW facility is limited to costs that a loan from SBA will not cover. PNP HOWs must apply to the SBA for a loan, as required by the Stafford Act. A PNP HOW may be eligible for financial assistance from FEMA if denied an SBA loan, or if the loan authorized is insufficient to cover repair costs. Details are in the third edition of the *Public Assistance Program Policy Guide* (FP 104-009- 2, January 2018), which is available online at [www.fema.gov/media-library/assets/documents/111781](http://www.fema.gov/media-library/assets/documents/111781).

#### *SBA Loan Requirement*

“Essential services” providers must apply for a low-interest disaster loan from the SBA at the same time they apply for the public assistance grants for permanent work assistance. If your organization qualifies as a “critical services” provider, it does not have to apply to SBA for loans.

#### *Facility Use*

To obtain funding, the facility or structure damaged or destroyed by the disaster must have over 50% of its space used for eligible services. Some spaces may be used for both eligible and ineligible purposes. Grant assistance, if approved, is proportional to the percentage of space used for eligible services. As a condition of receiving grant assistance, the organization must repair the entire building. Spaces dedicated to or used primarily for religious, political, athletic, recreational, or vocational purposes are not eligible for grant assistance.

If the nonprofit leases the building, it is legally responsible for disaster-related repairs. The pre-disaster lease must clearly state that the nonprofit is responsible for repairing major damage, not just maintenance or minor repairs.

#### *Mixed-use Facilities*

Similar to other Public Assistance Grants, FEMA will apply its policy on mixed-use PNP facilities and eligibility will be determined based on the primary use of the facility. If over 50% of the facility is used for an ineligible PNP service, such as recreation, then the facility will not be eligible.

A facility can have a 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 will 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 and have to apply to SBA first for the house of worship (HOW).

#### *Reimbursement for disaster-based assistance provided*

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, and preserve property and protect 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 will not provide Public Assistance funding to PNPs for 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.

#### *One-of-a-kind or irreplaceable objects and collections*

The damaged contents necessary to the operation of the PNP HOW facilities are eligible for FEMA's Public Assistance program without regard to the religious nature of the contents. This includes the replacement of destroyed contents with items similar in age, condition, and capacity. Replacement of rare books, collections, and objects is generally ineligible under the Public Assistance Program, however, costs associated with the 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 at page 123 and Appendix K: Work Eligibility Considerations by Type of Facility at page 205.

#### *Process*

Both critical and essential services nonprofits must register with FEMA and submit a request for assistance online at [Disasterassistance.gov](https://www.disasterassistance.gov) or by mail within 30 days of the disaster declaration by submitting FEMA Form 90-49. Once the request is approved, nonprofits will need to identify and report damages to their assigned Public Assistance Coordinator within the 60 days. Eligible nonprofits will have their applications forwarded to the Texas Department of Public Safety Division of Emergency Management.

#### *Houses of Worship Application Process*

HOWs are subject to the generally-applicable PNP rules and processes for the PA program. PNPs seeking Permanent Work for a HOW must first apply for a disaster loan from SBA. If the HOW's loan application is denied or the SBA loan will not fully cover the damages, FEMA may 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. 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* (Version 3, dated January 2018).

#### *Appeals*

If a nonprofit is denied FEMA funding, the nonprofit can appeal FEMA's decision within 60 days from the date on the denial letter. FEMA may take up to 90 days to make a determination of either upholding its denial or awarding a nonprofit assistance. If a nonprofit is denied for a second time, it may make a second appeal no later than 30 days from the date of the denial letter. FEMA may once again take up to 90 days to make a determination. A nonprofit generally has two appeals before it has exhausted its requests for FEMA assistance.

### **Employer Responsibilities**

During a disaster, nonprofits still owe their employees certain responsibilities including paying employees, leave time, properly handling layoffs, and addressing health concerns.

#### *Paying employees unable to work due to disaster*

Nonprofits may still be responsible for paying employees during a Presidential declared disaster. A nonprofit must pay a non-exempt employee only for the hours worked. A nonprofit must pay an exempt employee's full salary if the worksite is closed or unable to reopen for less than a full workweek. The nonprofit may require exempt employees to use accrued leave time during the time the worksite is closed. A nonprofit may not deduct from an employee's salary for less than a full-day's absence.

#### *Paying employees for "on call" or "waiting time"*

A nonprofit may be required to pay an employee who is required to remain "on call" at the employer's premises while and is not free to leave. "Waiting time" refers to occasions when an employer experiences a delay in

getting work to an employee. An employee's waiting time is compensable. An employee is not considered a volunteer if the "volunteer" work is the same as the work they are regularly paid to perform.

#### *Leave time for days employees cannot work due to disaster*

Employees may use time off granted by the Family & Medical Leave Act (FMLA) for serious health condition(s) caused by a disaster that affects the employee or a close relative for whom they provide care. Under the Americans with Disabilities Act (ADA), injured employees are entitled to reasonable accommodation(s) if it does not cause the nonprofit "undue hardship". The Uniformed Services Employment and Reemployment Rights Act (USERRA) protects members of the National Guard or reserves from discharge if they missed work to fulfill their service obligation.

#### *Layoffs and disaster unemployment*

An employer must send an employee a COBRA notice within 45 days of the date the employee will be laid off. Nonprofits should advise their employees to file for unemployment. Workers in a federally declared disaster area are eligible and should file for unemployment benefits. Employees of a nonprofit with three or fewer employees are eligible for disaster unemployment, even if the organization is not otherwise included in the Texas unemployment benefits coverage. If the layoffs are due to a disaster, the nonprofit's employer's account may not be charged.

### **Commercial Leases**

There is no automatic termination of a commercial lease for damage caused by a disaster. A nonprofit should review its lease terms and notify the property owner in writing that the property is unusable. The property owner may also be able terminate the lease if the premises are unusable.

#### *Repairable*

If the leased space is repairable, the tenant might be able to get abatement (postponement) of rent. The property owner must make repairs as soon as possible subject to insurance adjusters and contractor delays beyond its control. It is the property owner's responsibility to secure property damaged by disaster. Most leases state that the property owner is not responsible for any damage they did not cause. Nonprofits are advised to carry personal property insurance for the contents of its leased property.

#### *Leased equipment*

A nonprofit should review its lease or contract for leased equipment provisions. Contracts usually state that the nonprofit is responsible for keeping the leased property in good condition.

### **Charitable Donations**

A nonprofit is bound by a donor's restrictions and prohibition against benefitting private interests. It should decline, or attempt to redirect, donations made to narrow categories of beneficiaries in favor of programs supporting disaster survivors generally. Charitable purposes include relief of the poor and distressed. "Distressed" is not dependent on income but payment in excess of the recipient's reasonable and necessary immediate needs is treated as taxable income.

### **IRS Reports**

The IRS might extend the deadline for filing Form 990s due to a disaster. Check with the IRS for the most current information following a federally declared disaster.

## **Summary of Federal Assistance**

## **SBA Loans**

- SBA offers loans to small businesses, which include nonprofits, for damages resulting from declared disaster. Two types of SBA loans:
- Business Physical Disaster loans for the cost of replacing property or restoring property to its pre disaster condition up to \$2,000,000.
- Economic Injury Disaster loans to help meet ordinary operating expenses. If nonprofit unable to obtain credit from other sources, interest rate on both types of loans will not exceed 4%. 30 year repayment period.
- Application – Apply online using SBA’s secure website at <https://disasterloan.sba.gov/ela>; SBA’s Customer Service Center, (800) 659-2955 or by email to [disastercustomerservice@sba.gov](mailto:disastercustomerservice@sba.gov).
- Deadlines – Both types of SBA loans carry deadlines that may be extended based on the specific disaster for which the loan is sought. Contact the SBA for specific information.

## **Public Assistance Grants**

FEMA’s Public Assistance (PA) Grant Program provides federal assistance to government organizations and certain private nonprofit (PNP) organizations following a Presidential disaster declaration. It can provide:

- Emergency assistance - Federal supplemental disaster grant assistance for debris removal and emergency protective measures.
- Permanent assistance - Repair, replacement or restoration of disaster-damaged, publicly-owned facilities and the facilities of certain PNP organizations.

Qualifications as nonprofit - Must be open to the public and have only nominal costs that are waived if someone can show an inability to pay.

- *nonprofits providing critical services* - Education, utility, emergency and medical nonprofits – Apply directly to FEMA.
- *nonprofits providing non-critical essential services* - Museums, zoos, community centers – Must first apply for SBA loan for permanent work; file Form 90-49 with FEMA; may apply for emergency work assistance.

## Essential Service Providers

Includes childcare centers; daycare centers for individuals with special needs; libraries, museums, and zoos; community centers; performing arts facilities; community arts centers; disability advocacy and service providers; homeless shelters, rehab facilities; domestic violence shelters; animal shelters; food programs for the needy; social and human services organizations for children, youth and adults; and senior citizens centers.

*Community centers* exclude those used solely for political, athletic, recreational, vocational, and academic training. Community centers include Houses of Worship.

## Application for Public Assistance Grants

- Deadline to file FEMA Form 90-49, Request for Public Assistance (RPA), is 30 days from the date of disaster declaration.
- If FEMA deems nonprofit is eligible, it will forward RPA to Texas (DPS-Emergency Management) who will assign a Public Assistance Coordinator (PAC). Then the organization fills out more paperwork.
- If FEMA denies the RPA, an organization must appeal in writing within 60 days.

Note: Apply for SBA and Public Assistance Grant within 30 days.

## Dual Applications for SBA and PA Grant

SBA loan application process for “non-critical” facilities will result in one of four outcomes:

- PNP is declined for an SBA loan. The PNP may then apply for FEMA assistance.

- The PNP is approved for an SBA loan and the loan fully covers eligible damages from the disaster event. No assistance from FEMA is available.
- The PNP is approved for an SBA loan and the maximum SBA loan for which the facility is eligible does not fully cover eligible damages. The excess damages are eligible for FEMA assistance.
- The PNP is approved for SBA loan but does not accept the loan. The amount of FEMA assistance will be reduced by the amount of the approved SBA loan.

## Disaster Recovery Checklist

- Disaster planning team is established
- Risk for types of disasters is evaluated
- Inventory list is updated
- P&C Insurance is purchased and reviewed regularly
- Evacuation plan is in place
- Practice drills conducted periodically
- Central meeting place is established
- First Aid Kit, flashlights and batteries, and fire extinguisher are on premises
- Official emergency numbers (Fire, Police) are posted
- All employee phone numbers and emergency contacts are current
- Electronic files and data are backed up, stored offsite, and checked often
- Copies of vital records and records are stored offsite or electronically
- Alternate work site is established with adequate communications, equipment, supplies, and furniture to accommodate employees
- Remote access for employees is established
- There is sensitivity to potential panic and fear among employees after the disaster has ended; psychological support will be made available as needed
- Disaster recovery plan is documented and distributed; updated annually

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